HOUSE OF REPRESENTATIVES—*Tuesday, April 26, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker.

MORNING BUSINESS

The SPEAKER. Under the Speaker's announced policy of February 11, 1994, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 5 minutes.

HEALTH CARE REFORM

Mr. KNOLLENBERG. Mr. Speaker, many of my colleagues would have the American people believe that a Government-run, Big Brother-like health care delivery system is not only necessary, but rather a must. This ill-informed argument is almost always supported by the word crisis.

In my estimation of this appraisal, crisis implies panic and bigger Government—a lack of faith in the individual. I believe that the United States has the finest health care in the world.

Our employer-based system covers between 85 to 87 percent of all Americans, and in my home State of Michigan over 90 percent are covered.

As a former small business owner, I understood all too well the state of our Nation's health care delivery system. Day-in and day-out, I had the opportunity to help my employees and clients deal with the crush of burdensome paperwork, interpreting confusing policy language, and making sure that their health dollars were not wasted.

Now as a Member of Congress who campaigned on reform, specifically health care reform, I am still wrestling with these and other equally difficult health issues.

Individuals may suggest that it is easy for me and a few of my colleagues to take a no crisis position because the taxpayers are funding our health care benefits. In my case, they are wrong. My wife, Sandie, and I have chosen not to participate in the congressional health plan. Instead, we selected a private plan outside the congressional system that meets our needs.

Does this mean that there aren't problems? Certainly not. Americans deserve health care reform that includes the following:

Portability of coverage—no one should lose their health care coverage due to changes in their employment status.

Costs of coverage must come down—so-called community rating is anything but reflective of the community. Rates should accurately reflect costs associated for that individual rather than a region or age group.

An end to the preexisting conditions exclusion—no one should be denied coverage merely on the basis of whether or not they have had a specific illness or disability.

Technology needs to be introduced to help reduce needless paperwork—the industry has been studying electronic conversion for several years, and with mounting health care costs, there is no time like the present to put this change into effect.

The self-employed need a tax deduction—by and large, the self-employed are small business persons who are providing as much insurance as they can afford. Is another tax the proper way to reward these people?

And finally, significant steps must be taken to ease burdensome litigation brought on by malpractice suits.

These challenges posed by the health care debate revolve around self-determination versus Government-run bureaucracy. All of these elements are central provisions of Congressman MICHEL's bill H.R. 3080—a reasonable, commonsense approach to rational health care reform.

I believe in the individual and the spirit of free-market competition. And it is this fight Republicans are taking to Capitol Hill, and it is one we will ultimately win, guaranteeing quality care for all Americans.

TRIBUTE TO CAROL KOUSNETZ STERKIN

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Virginia [Mrs. BYRNE] is recognized during morning business for 5 minutes.

Mrs. BYRNE. Madam Speaker, I rise today to pay tribute to a remarkable scientist, wife, and mother whose 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 she held with distinction for the past 30 years.

Ms. Sterkin's passions were in research and technical writing. At the Jet Propulsion Laboratory Library, she combined the research skills of a librarian with the knowledge of a scientist.

She was a pioneer in the development of global access to on-line scientific and technical data bases and was one of the original developers of on-line information systems that provide scientists worldwide with the capability to share and pool knowledge. Until the time of her death, she remained one of the world's ranking experts in this field.

One of the Jet Propulsion Laboratory's principal scientists said of Ms. Sterkin 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 remains vacant.

Her loss will be felt, not only by her family and community, but throughout the scientific world for a long time. I ask my colleagues to join me in honoring a truly great American, Carol Kousnetz Sterkin.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from California [Mr. HORN] is recognized during morning business for 5 minutes.

Mr. HORN. Madam Speaker, it is time for real reform of campaign finance. S. 3, passed by the Senate, was a constructive bill. As amended by this House, it is not a constructive bill. It is a sham.

Let us take a moment to look at the claims made by the sponsors of the so-called campaign finance reform in this Chamber and at the reality of what this bill would really do.

Claim one: The House Democrats say S. 3 as amended by them, institutes spending limits.

The reality: Only a small number of campaigns will even come close to the proposed spending limit. The reality is that for most campaigns, the so-called limit only means taxpayer financing.

Claim two: S. 3, as amended by this House, will presumably limit political action committees.

The reality: That is false. House Democrats consider the $5,000 political action committee donation that can be made in each election—primary and general for a total of $10,000—simply a sacred cow that is untouchable, and not even open to any compromise.

House Republicans, on the other hand, endorsed a ban on all political action committees. Senate Republicans, and even Senate Democrats, did exactly the same. All but the House Democrats support a ban on political action committees. Only House Democrats block action on such a ban.

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Claim three: The House Democrats claim that this bill will level the playing field between incumbents and challengers.

The reality: The entire bill is unfair to challengers. That is why the House Democrats have controlled the House for 39 years. They do not want a bill that will permit a level playing field. That is why they do not include the franking budgets for mail for the incumbents, we—both Republicans and Democrats. Those franking budgets can pay for thousands and thousands of pieces of unsolicited mail as an election comes near.

This money gives incumbents a massive advantage over any possible challenger.

Claim four: There will be increased disclosure and audits of campaign finances if this bill passes.

□ 1040

The reality: Audits will be difficult to do, since the Clinton administration has reduced the funding available for the Federal Election Commission. In 1992, every Presidential campaign that accepted taxpayer funding faced an audit. Under S. 3, as amended by the majority in the House of Representatives, only 5 percent of the congressional campaigns that accept taxpayer dollars will face random audits.

It is one thing for the House to have audits of Presidential campaigns; it is another thing for the House Democratic majority not to want to audit its own expenses. But does that bias really surprise any of us?

Should the taxpayers just accept the congressional candidate's word that indeed the money has been spent appropriately? Of course not. If we are going to give taxpayer money to any campaign, Presidential or House Member, as the Democrats propose, then the taxpayers at least deserve to know that their money has been spent appropriately.

Claim five: The proposed bill will reform campaign spending.

The reality: To quote the bill—the bill the House Democrats forced down this Chamber's throat—the bill says, "This act shall not be effective until the enactment of revenue legislation."

And the Democratic majority has made absolutely no provision in this bill for how you would fund it. No realistic revenue options have yet been introduced and the revenue ideas that have been proposed so far are more of a sham than the other so-called reforms, all of which are shams.

Democrats claim that in this bill they have reforms. They do not.

Claim six: This bill cleans up campaigns.

The reality: The Federal Election Commission banned congressional staff from loaning or donating money to the campaigns of their bosses. Such donations are an obvious conflict of interest and an opening to extortion of one's staff.

Section 506 of this bill inserts a loophole for advances on amounts up to $500. In California, I should remind my colleagues, four current and former members of the State legislature have been indicted by the U.S. attorney and convicted of extortion-related offenses that involve campaign finance. Is it really time to open up new loopholes at the Federal level?

Claim seven: Republicans are blocking reform.

The reality: That is so silly, it is laughable. The Democrats are the majority in the House. Anything they want to pass, they can pass. Anything they want to block, they can block.

The Democratic majority blocked the only bipartisan bill—the so-called Synar-Livingston bill—from even coming to the floor. While that bill did not totally ban political action committees, it at least cut them from the $5,000 per election they can now give to one candidate down to $1,000 per election. The majority party strangled that progressive proposal in the Committee on Rules. It was afraid the proposal would pass, as it would have if Members could have voted on the measure.

All I can say, my colleagues, is that this Chamber should be ashamed of the action it took earlier.

Republicans oppose the public financing of campaigns. Thoughtful Americans oppose the public financing of campaigns. In reality, House Democrats themselves must oppose public financing of campaigns, since they will not provide funding for it. Even Democrats know that public financing is a bad idea.

Republicans stand ready to work with the Democrats on a real reform bill. We do have concrete proposals that will truly change the way campaigns are run.

We support a ban on political action committees.

We support a ban on soft money.

We support a ban on contribution bundling by special interest groups.

We support a requirement that candidates raise most of their money from the voters in the district—not from the special interest groups in Hollywood, New York, and Washington, DC.

Many Republicans and Democrats support similar goals. The Senate Democrats and Republicans agree. The House Democrats should yield to the Senate in conference. If they do not, let us come together on a bipartisan reform bill. A real reform bill.

MOVING BEYOND TIANANMEN: LEARNING THE LESSONS OF CHINA POLICY

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, the gentleman from Kansas [Mr. GLICKMAN] is recognized during morning business for 5 minutes.

Mr. GLICKMAN. Madam Speaker, tomorrow the country buries Richard Nixon, the President who will be remembered both for his far-sighted foreign policy and his disastrous involvement in the Watergate scandal. Today I wish to talk for a few minutes about our country's China policy, recognizing that the timing of Mr. Nixon's death provides a unique opportunity to focus the future of United States-China relations.

Few would have predicted, 5 years ago, the changes that have reshaped the world. The Berlin Wall is a museum piece; former Warsaw Pact states apply to join NATO, but the cold-war paradigms and 5-year-old memories of Tiananmen Square still define United States-Chinese relations.

Ironically, the first post-cold-war administration has yet to articulate a clear post-cold-war policy toward China. The administration correctly elevated Asia to the more prominent position it deserves in U.S. foreign policy. A sampling of the geopolitical landscape illustrates that as important as Tokyo and Seoul are to the United States, the fate of United States-Asian interests will rest on Beijing.

China may not be able to dissuade the North Koreans from their nuclear ambitions, but its leverage over North Korea will be essential for defusing the Korean nuclear problem. It will take China's cooperation to cool the arms race between India and Pakistan as well as deal with the simmering instability in the central Eurasian states of the former Soviet Union, as well as taking into account the great instability faced by the Russian Government itself.

A stable China is a necessary element for stability in all these regions. The administration is not alone in recognizing China's importance to the United States. Iran has already approached Beijing, proposing an Iranian-Chinese alliance to counter the United States, as well as, no doubt, to give Iran a freer hand for its regional expansionism. Although the first entreaty was rebuffed, it ought to send a signal to us that the United States runs a risk in putting off China and keeping China separate from us. If the United States can make peace with the old Soviet Union, the archenemy we faced on the brink of nuclear annihilation for nearly five decades, surely we can bring ourselves to move beyond the searing images of Tiananmen Square that seem to exclusively drive China policy. To do less threatens not only the complexity of the geopolitical interests in the world but jeopardizes an incredible opportunity to participate in China's economic and political revolution and help to moderate their political system and help to moderate their human rights treatment.

MFN status—most favored nation status—the cold war relic underlying our China policy, should not be the basis for the entire United States-Chinese relationship. That was created constructively to pry exit visas out of the hands of the Soviets. Moreover, there was little risk to United States interests denying MFN to Russia. Contemporary China, which beckons a rush of eager investment from dozens of countries, is much different.

The President, during his campaign, stitched together a winning coalition addressing basic economic themes and resisting the pressures of certain interests who for years damaged the Democratic Party credibility with the public on issues of foreign policy and national security. NAFTA is perhaps the greatest example of this.

The fact of the matter is that China has been an exception. In spite of the fact that China's economy is the most robust in the world right now, China is not the enemy. Instead of threatening Beijing with the trade equivalent of a nuclear strike, we should be promoting measures to build confidence into the relationship as well as throughout the region. The most immediate objective should be addressing regional security and stability, weapons proliferation, and strengthening trans-Pacific economic ties. These directly threaten United States lives and interests just as much as Chinese human rights policies do.

Rather than pursuing a policy based exclusively on human rights, a nonlinear approach to bilateral relations that respects China's role as an emerging world leader will do far more to improve China's bleak record on human rights than a relationship exclusively focused on China's dissidents.

The United States has a special role in insisting that governments respect the dignity of their citizenry. But given the torturous history of China's relations with Western nations and its historic antipathy toward both Russia and Japan, success with China will depend on a whole range of factors beyond specific performance standards, preconditions, and expanding trade relationships.

Let me close by saying the following: Richard Nixon recognized that a strong China allied with the United States could divide the Communist world and perhaps lead to the breakup of the world Communist system. We need to recognize that China is a powerful moderating force against a nuclear Korea, against an unstable Russia, and against a worldwide unpredictable terrorist threat, not even taking into account the exploring economic growth in East Asia.

Finally, it is absolutely clear to me that Chinese treatment of its citizens does need serious attention. But treating China as an equal partner of the world will give us much greater moral authority to improve their domestic human rights than the current policy being proposed by many people throughout this country.

PARLIAMENTARY INQUIRY

Mr. LIVINGSTON. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mrs. CLAYTON). The gentleman will state it.

Mr. LIVINGSTON. Madam Speaker, is it permissible for me at this time to withdraw my name from cosponsorship of an amendment by unanimous consent?

The SPEAKER pro tempore. The Chair is informed the gentleman will have to get that permission when the House reconvenes at 12 noon to conduct business.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized during morning business for 5 minutes.

Mr. LIVINGSTON. Madam Speaker, the House and Senate Democrats are currently meeting behind closed doors to craft a partisan campaign finance bill that they claim will bring reform to the election process.

However, press reports indicate that this bill will actually deliver permanent incumbent protection along with public financing of campaigns.

Not only will they impose sham limits on campaigns that could run in excess of $1 million per campaign, but the Democrats are actually going to vote to give themselves and all other candidates running for the House and Senate up to more than $300,000 in taxpayer funds, to use in their campaigns.

Those taxpayer's funds are often known as welfare for the politicians. Any advocate of true campaign finance reform believes that we must reform the rules governing special interest Political Action Committee contributions. Current law allows $5,000 PAC contributions, which go overwhelmingly to incumbents. PAC's gave $94 million to House incumbents and only $12 million to House challengers in the 1991–92 election cycle. It is no wonder then that the so-called reform bill under consideration by the Democrats would maintain $5,000 PAC contributions, which favor incumbents and protect the Democrat majority in the Congress.

Reports indicate that the Senate Democrats understand that PAC reform is necessary for any real campaign reform bill, and they may include a PAC ban or a $1,000 PAC limit. It is too bad that the House Democrats cannot join the House Republicans, and the Republicans and Democrats in the Senate who support real PAC reform.

Any genuine reform bill must also address bundling which allows special interests to bundle many individual checks together to evade PAC contribution limits and gain disproportionate influence. House Republicans would ban bundling. House Democrats claim to ban bundling, but they create a giant loophole for nonconnected PAC's such as Emily's List which, coincidentally support Democrat candidates. This is not reform, it is incumbent protection.

The House Democrats also seem intent on crafting a loophole for leadership PAC's which allow congressional leaders to form two campaign committees and take twice as many contributions as would be allowed with only one campaign committee. This is another step back from true reform. House Republicans would ban leadership PAC's.

The so-called good government groups are conspiring with the Democrats to pass this incumbent-protection scheme in order to implement Common Causes's dream of public financing. The Democrats are committed to providing themselves with taxpayer funds to pay for their campaign expenses. What's worse is that the Democrats will not admit where the money will come from to pay for the welfare for politicians.

Democrats do not like to admit that when they provide money from the U.S. Treasury for their own campaigns, they are taking money from the taxpayers. However, the taxpayers will understand, and they will vote.

I implore the Democrats to end their closed-door meetings and to negotiate with Republicans to craft a true campaign finance reform bill. In fact, Minority Leader MICHEL, Minority Whip GINGRICH, House Administration Ranking Member THOMAS, and myself sent a letter to Speaker FOLEY asking for bipartisan input on this issue.

I include for the RECORD this letter from Mr. MICHEL to Mr. THOMAS FOLEY, Speaker of the House of Representatives.

OFFICE OF THE REPUBLICAN LEADER,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 13, 1994.

Hon. THOMAS FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We understand that Democrats have been meeting behind closed doors on campaign reform prior to appointment of a conference committee. This signals that the majority believes it alone can write a campaign reform conference report that passes in both houses. We are not so confident.

We wholeheartedly agree with your strong public statements that the Congress should enact meaningful campaign reform in 1994. House Republicans have long argued that campaign reform is needed, and have presented legislation offering real reform.

Unfortunately, both bills now awaiting appointment of conferees contain provisions for the public financing of campaigns, and the House bill does not contain a mechanism to pay for this public financing.

We remain opposed to public financing. We are also opposed to telling the American peo-

ple that we have enacted "reform" when, without a funding mechanism, such reform will never occur. Rather than attempt to pass a flawed conference agreement that does nothing, we stand committed to achieving real reform this Congress.

We believe that real reform must contain significant reforms on political action committees, Leadership PACs, bundling, and political party soft money. We are committed to working with you to achieve these goals.

ROBERT H. MICHEL.

□ 1050

TRIBUTE TO CHRISTOPHER ANDREW HEIL UPON HIS RETIREMENT AS AN OFFICIAL REPORTER OF DEBATES OF THE U.S. HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mrs. CLAYTON). Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning business for 5 minutes.

Mrs. MORELLA. Madam Speaker, my colleagues may have noticed that there has been considerably less shorthand written on the House floor this year. With the retirement of Christopher Andrew Heil from the staff of the Official Reporters of Debates in March, the end of the era of legislative stenographic reporting by the use of manual shorthand systems comes inexorably closer. It is hard to imagine that in 1973, when Chris joined the House staff, there were no stenotype or machine writers; all the floor reporters used either the Gregg or Pitman system, following in the tradition of Charles Dickens, who studied human nature and honed his literary craft as a stenographic Hansard reporter in the British House of Commons.

With his retirement, Chris knows that though all good things must end, other good things await. With his wife Agnes, he now finds time to visit his four children and his grandchildren located throughout the Capital and Atlantic coast region. An accomplished photographer, both as an amateur and at one time a professional, he now looks forward to satisfying his passion of recording the beauties of nature on film.

A native of Summit County and Akron, OH, Chris graduated from Columbia Union College in Takoma Park, MD and later, from 1948 to 1950 received his professional training as a court reporter at Gregg College in Chicago. His career as a reporter, specializing in the reporting of court trials, depositions, statements, and arbitration and Government agency hearings, took him to Cleveland, where he was employed by the reporting firm of Fincun, Hagan and Morse, and Toledo, OH, where he owned and operated his own free-lance reporting firm prior to a brief stint as a floor reporter in the U.S. Senate and his permanent appointment on the House staff.

One day in the life of Chris Heil—June 6, 1944, D-Day—stands out above all others. As a U.S. Army combat engineer expert, trained in mine detecting, he landed on Omaha Beach as part of a vanguard force clearing the way for Gen. Omar Bradley's 1st Infantry Division spearheading the Allied invasion of France's Normandy coast. His survival is an incredible story of devotion, bravery, and luck. It was a productive day; the mission went well until late on that fateful day when both Chris and his mine detector were put out of action by enemy fire. Amid the death and destruction that seemed never-ending, Chris, through heroic efforts of U.S. Army and Coast Guard personnel, was evacuated. Six months later, with the wound to his left leg nearly healed, he was reassigned to duty as a combat engineer on the European continent. In Belgium, he was wounded again when a building he occupied was bombed. Later, after sweating out an impending reassignment to the Pacific theater, the war ended and Chris came home.

Like so many of his contemporaries, Chris took advantage of the G.I. Bill of Rights to train for his chosen profession—a profession he had never heard of before his Army service. It was in a hospital in Swansea, Wales, that Chris, clamoring for scarce reading material as he recovered from the wounds he had suffered on D-Day, was given a Gregg shorthand textbook. With nothing better to read, he thumbed through the pages and found himself developing an interest. Interest turned to fascination, and thus was born a resolve to become a shorthand expert.

After Chris recuperated and returned to the front, he referred often to the shorthand textbook which he had retained and even found time to practice what he had learned. Once, so the story goes, he was observed as he stood guard at night on the perimeter of his encampment moving his bayonet through the surface of a patch of snow that lay on the ground.

"What are you doing, Heil?" asked a puzzled comrade.

There was nothing for it but the truth, as improbable as it may have sounded. "Just practicing my shorthand," Chris answered.

Madam Speaker, our thanks go out to Chris for his years of service, his expertise, and his professionalism as an employee of the House, and we would note, too, that certainly his unselfish defense of his country and our liberties deserve the thanks of all Americans.

□ 1100

RECESS

The SPEAKER pro tempore (Mrs. CLAYTON). Pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 11 a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, from whom comes the gift of life and the blessings of faith and to whom we return at life's end, we remember with gratefulness all those who have gone before and whose lives make our lives more complete. May our hearts be filled with the awareness that we do not have here an abiding city and we are but stewards of Your many graces that are given each day. May we so live our lives in appreciation of the gifts that are new each morning that through our words and deeds, we will be the people You would have us be and do those good things that honor You, O God, and serve people with faithfulness and honor. This is our earnest prayer. 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. Will the gentleman from Alabama [Mr. EVERETT] please come forward and lead the House 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 the following resolution:

S. RES. 205

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Richard M. Nixon, a former President of the United States, a former Vice President of the United States, a former Representative and former Senator from the State of California.

Resolved, That in recognition of his illustrious statesmanship, his leadership in national and world affairs, his distinguished public service to his State and his Nation,

and as a mark of respect to one who has held such eminent public station in life, the Presiding Officer of the Senate appoint a committee to consist of all the Members of the Senate to attend the funeral of the former President.

Resolved, That the Senate hereby tender its deep sympathy to the members of the family of the former President in their sad bereavement.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, April 22, 1994:

H.R. 2884. An act to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

The SPEAKER. Without objection, the bill, H.R. 4092, is laid on the table.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, April 26, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Monday, April 25, 1994 at 5:40 p.m. and said to contain a message from the President whereby he transmits a 6-month periodic report on the national emergency with respect to Haiti.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

SIGNIFICANT DEVELOPMENTS IN HAITI—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-246)

The Speaker laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

1. In December 1990, the Haitian people elected Jean-Bertrand Aristide as their President by an overwhelming margin in a free and fair election. The United States praised Haiti's success in peacefully implementing its democratic constitutional system and provided significant political and economic support to the new government. The Haitian military abruptly interrupted the consolidation of Haiti's new democracy when in September 1991, it illegally and violently ousted President Aristide from office and drove him into exile.

2. The United States, on its own and with the Organization of American States (OAS), immediately imposed sanctions against the illegal regime. The United States has also actively supported the efforts of the OAS and the United Nations to restore democracy to Haiti and to bring about President Aristide's return by encouraging and facilitating a political process involving all the legitimate Haitian parties. The United States and the international community also offered material assistance within the context of an eventual settlement of the Haitian crisis to support the return to democracy, build constitutional structures, and foster economic well-being.

In furtherance of these twin objectives—restoration of constitutional democracy and fostering economic recovery—as discussed in section 10 below, the United States has taken additional measures to block the U.S.-located assets of persons (civilian as well as military) whose conduct, or material or financial support, has assisted the illegal maintenance of the illegitimate regime in Haiti, including persons obstructing the U.N. Mission in Haiti or the implementation of the Governors Island Agreement, and persons perpetuating or contributing to the violence in Haiti. In addition, in an effort to stabilize employment and minimize economic hardship for the local populace in Haiti, U.S. persons currently licensed to deal with the vital Haitian assembly sector have received reauthorization through May 31, 1994.

3. This report is submitted to the Congress pursuant to 50 U.S.C. 1641(c) and 1703(c), and discusses Administration actions and expenses since my last report (November 13, 1993) that are directly related to the national emergency with respect to Haiti declared in Executive Order No. 12775, as implemented pursuant to that order and Executive Orders Nos. 12779, 12853, and 12872.

4. Economic sanctions against the *de facto* regime in Haiti were first imposed in October 1991. On October 4, 1991, in Executive Order No. 12775, President Bush declared a national emergency to deal with the threat to the national security, foreign policy, and economy of the United States caused by events that had occurred in Haiti to disrupt the legitimate exercise of power by the democratically elected government of that country (56 Fed. Reg. 50641). In that order, the President ordered the immediate blocking of all property and interests in property of the Government of Haiti (including the Banque de la Republique d'Haiti) then or thereafter located in the United States or within the possession or control of a U.S. person, including its overseas branches. The Executive Order also prohibited any direct or indirect payments or transfers to the *de facto* regime in Haiti of funds or other financial or investment assets or credits by any U.S. person, including its overseas branches, or by any entity organized under the laws of Haiti and owned or controlled by a U.S. person.

Subsequently, On October 28, 1991, President Bush issued Executive Order No. 12779, adding trade sanctions against Haiti to the sanctions imposed on October 4 (56 Fed. Reg. 55975). This order prohibited exportation from the United States of goods, technology, services, and importation into the United States of Haitian-origin goods and services, after November 5, 1991, with certain limited exceptions. The order exempted trade in publications and other informational materials from the import, export, and payment prohibitions and permitted the exportation to Haiti of donations to relieve human suffering as well as commercial sales of five food commodities: rice, beans, sugar, wheat flour, and cooking oil. In order to permit the return to the United States of goods being prepared for U.S. customers by Haiti's substantial "assembly sector," the order also permitted, through December 5, 1991, the importation into the United States of goods assembled or processed in Haiti that contained parts or materials previously exported to Haiti from the United States. On February 5, 1992, it was announced that specific licenses could be applied for on a case-by-case basis by U.S. persons wishing to resume a pre-embargo import/export relationship with the assembly sector in Haiti.

5. On June 30, 1993, I issued Executive Order No. 12853 that expanded the blocking of assets of the de facto regime to include assets of Haitian nationals identified by the Secretary of the Treasury as providing substantial financial or material contributions to the regime, or doing substantial business with the regime. That Executive order also implemented United Nations Security Council Resolution ("UNSC Resolution") 841 of June 16, 1993, by prohibiting the sale or supply by U.S. persons or from the United States, or using U.S.-registered vessels or aircraft, of petroleum or petroleum products or arms and related materiel of all types to any person or entity in Haiti, or for the purpose of any business carried on in or operated from Haiti, or promoting or calculated to promote such sale or supply. Carriage of such goods to Haiti on U.S.-registered vessels is prohibited, as is any transaction

for the evasion or avoidance of, or attempt to evade or avoid, any prohibition in the order.

6. As noted in my previous report, apparent steady progress toward achieving the firm goal of restoring democracy in Haiti permitted the United States and the world community to suspend economic sanctions against Haiti in August 1993. With strong support from the United States, the United Nations Security Council adopted Resolution 861 on August 27, 1993, suspending the petroleum, arms, and financial sanctions imposed under UNSC Resolution 841. On the same day, the Secretary General of the OAS announced that the OAS was urging member states to suspend their trade embargoes. In concert with these U.N. and OAS actions, U.S. trade and financial restrictions against Haiti were suspended, effective at 9:35 a.m. e.d.t., on August 31, 1993.

These steps demonstrated my determination and that of the international community to see that Haiti and the Haitian people resume their rightful place in our hemispheric community of democracies. Our work to reach a solution to the Haitian crisis through the Governors Island Agreement was however seriously threatened by accelerating violence in Haiti sponsored or tolerated by the de facto regime. The violence culminated on October 11, 1993, with the obstruction by armed "attachés," supported by the Haitian military and police, of the deployment of U.S. military trainers and engineers sent to Haiti as part of the United Nations Mission in Haiti. The Haitian military's decision to dishonor its commitments made in the Governors Island Agreement was apparent. On October 13, 1993, the United Nations Security Council issued Resolution 873, which terminated the suspension of sanctions effective at 11:59 p.m. e.d.t., October 18, 1993.

As a result, effective at 11:59 p.m. e.d.t., October 18, 1993, the Department of the Treasury revoked the suspension of those trade and financial sanctions that had been suspended, so that the full scope of prior prohibitions was reinstated (58 Fed. Reg. 54024, October 19, 1993). In addition to the actions I took in Executive Order No. 12853, the reinstated sanctions in the Haitian Transactions Regulations, 31 C.F.R. Part 580 (the "HTR"), prohibit most unlicensed trade with Haiti, and block the assets of the de facto regime in Haiti and the Government of Haiti. Restrictions on the entry into U.S. ports of vessels whose Haitian calls would violate U.S. or OAS sanctions had they been made by U.S. persons were also reinstated.

Also effective at 11:59 p.m. e.d.t., October 18, 1993, I issued Executive Order No. 12872 (58 Fed. Reg. 54029), authorizing the Department of the Treasury to block assets of persons who have: (1) contributed to the obstruction of UNSC resolutions 841 and 873, the Governors Island Agreement, or the activities of the U.N. Mission in Haiti; (2) perpetuated or contributed to the violence in Haiti; or (3) materially or financially supported either the obstruction or the violence referred to above. This authority is in addition to the blocking authority provided for in the original sanctions and in Executive Order No. 12853 of June 30, 1993, and ensures adequate authority to reach assets subject to U.S. jurisdiction of military and police officials, civilian "attachés" and their financial patrons meeting these criteria. A list of 41 such individuals was published on November 1, 1993, by the Office of Foreign Assets Control (FAC) of the Department of the Treasury (58 Fed. Reg. 58480).

On October 18, I ordered the deployment of six U.S. Navy vessels off Haiti's shores. To improve compliance with the ban on petroleum and munitions shipments to Haiti contained in UNSC resolutions 841 and 873, my Administration succeeded in securing the passage of UNSC Resolution No. 875. UNSC Resolution 875 calls upon the United Nations Member States acting either nationally or through regional agencies or arrangements to halt inward maritime shipping for Haiti in order to inspect and verify that the Haiti-bound cargo does not contain UNSC-prohibited petroleum or arms. A multinational Maritime Interdiction Force that includes elements of the U.S. Navy and the U.S. Coast Guard has been established and now patrols the waters off Haiti.

7. The declaration of the national emergency on October 4, 1991, was made pursuant to the authority vested in the President by the Constitution and laws of the United States, including the International Emergency Economic Power Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code. The emergency declaration was reported to the Congress on October 4, 1991, pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). The additional sanctions set forth in Executive Orders Nos. 12779, 12853, and 12872, were imposed pursuant to the authority vested in the President by the Constitution and laws of the United States, including the statutes cited above, as well as the United Nations Participation Act of 1945 (22 U.S.C. 287c), and represent the response by the United States to the United Nations Security Council and OAS directives and recommendations discussed above.

8. Since my report of November 13, 1993, FAC, in consultation with the Department of State and other Federal agencies, has issued General Notice No. 3, "Notification of Blocked Individuals of Haiti." The Notice, issued January 27, 1994, identifies 523 officers of the Haitian Armed Forces who have been determined by the Department of the Treasury to be Blocked Individuals of Haiti. General Notice No. 4, issued April 4, 1994, identifies an additional 27 individual officers of the Haitian Armed Forces and one civilian who have been determined by the Department of the Treasury to be Blocked Individuals of Haiti. These are persons who are members of the de facto regime or are blocked pursuant to Executive Orders Nos. 12853 or 12872. (A comprehensive list of Blocked Individuals of Haiti was published on April 7, 1994 (59 Fed. Reg. 15548)).

U.S. persons are prohibited from engaging in transactions with these individuals and with all officers of the Haitian military (as members of the de facto regime), whether or not named in General Notice No. 3 or No. 4, unless the transactions are licensed by FAC. Additionally, all interests in property of these individuals that are in the United States or in the possession or control of U.S. persons, including their overseas branches, are blocked. U.S. persons are not prohibited, however, from paying funds owed to these entities or individuals into the appropriate blocked account in domestic U.S. financial institutions. Copies of the comprehensive list and of General Notices No. 3 and No. 4 are attached.

A policy statement, effective January 31, 1994 (59 Fed. Reg. 8134, February 18, 1994), was published to extend until March 31, 1994, the expiration date for all current assembly sector licenses issued by FAC pursuant to the HTR, and a second policy notice, effective March 29, 1994, was published on April 1, 1994 (59 Fed. Reg. 15342), extending these licenses through May 31, 1994. These licenses have provided an exception to the comprehensive U.S. trade embargo on Haiti under which the "assembly sector" has continued to receive parts and supplies from, and supply finished products to, persons in the United States. Copies of the policy statements are attached.

Assembly sector trade with the United States accounted for a significant portion of Haiti's imports, and a substantial majority of its exports, prior to the institution of the OAS-requested embargo in November 1991. Although initially suspended due to the embargo, assembly sector imports from and exports to the United States were allowed to resume on a case-by-case basis beginning in February 1992 in order to keep poorer segments of the Haitian population employed and to reduce their incentive to attempt illegal and dangerous immigration by sea to the United States and other countries. However, the continuing uncertainties of the Haitian situation have led to a sharp decline in assembly sector activity, where employment is now estimated to be no more than 10 percent of pre-embargo levels.

9. In implementing the Haitian sanctions program, FAC has made exten-

sive use of its authority to specifically license transactions with respect to Haiti in an effort to mitigate the effects of the sanctions on the legitimate Government of Haiti and on the livelihood of Haitian workers employed by Haiti's assembly sector, and to ensure the availability of necessary medicines and medical supplies and the undisrupted flow of humanitarian donations to Haiti's poor. For example, specific licenses were issued: (1) permitting expenditures from blocked assets for the operations of the legitimate Government of Haiti; (2) permitting U.S. firms with pre-embargo relationships with product assembly operations in Haiti to resume those relationships in order to continue employment for their workers or, if they chose to withdraw from Haiti, to return to the United States assembly equipment, machinery, and parts and materials previously exported to Haiti; (3) permitting U.S. companies operating in Haiti to establish, under specified circumstances, interest-bearing blocked reserve accounts in commercial or investment banking institutions in the United States for deposit of amounts owed the de facto regime; (4) permitting the continued material support of U.S. and international religious, charitable, public health, and other humanitarian organizations and projects operating in Haiti; (5) authorizing commercial sales of agricultural inputs such as fertilizer and foodcrop seeds; and (6) in order to combat deforestation, permitting the importation of agricultural products grown on trees.

10. During this reporting period, U.S.-led OAS initiatives resulted in even greater intensification and coordination of enforcement activities. Continued close coordination with the U.S. Customs Service in Miami sharply reduced the number of attempted exports of unmanifested, unauthorized merchandise. New FAC initiatives are expected to result in more effective coordination of Customs Service and Department of Justice activities in prosecution of embargo violations. During the reporting period, the multinational Maritime Interdiction Force that contains elements of the U.S. Navy and U.S. Coast Guard, continued to patrol offshore Haiti and to conduct ship boardings, inspections of cargoes bound for Haiti, identification of suspected violators, and referrals for investigation. The Maritime Interdiction Force has boarded 612 ships and diverted 38 of these ships for various reasons (inaccessibility of cargo for inspection, items prohibited by the United Nations Security Council embargo on board) from its inception to March 30, 1994. Actions have been taken to counter embargo violations as they have developed. There have been high-level discussions with the Government of the Dominican Republic to encourage its stated desire to cooperate with the United Nations in increasing the effectiveness of the enforcement of the sanctions on that country's common border with Haiti across which fuel smuggling is occurring. Other steps have been taken to control sales of bunker fuel by ships in Haitian ports and smuggling of fuel in Haitian-Dominican coastal waters.

The Department of the Treasury, in close coordination with Department of State and the intelligence community, continues to designate "Blocked Individuals of Haiti," blocking the assets of persons (civilian as well as military) whose conduct meets the criteria of Executive Orders Nos. 12755, 12853, and 12872, including persons obstructing the U.N. Mission in Haiti or the implementation of the Governors Island Agreement and persons perpetuating or contributing to the violence in Haiti. The list was last expanded on January 27, when the entire officer corps of the Haitian Armed Forces was blocked as part of the de facto regime in Haiti, and on April 4, when one additional civilian was added to the list. As others subverting democracy in Haiti and additional members of the officer corps are identified by name, these names will be incorporated into the list of "Blocked Individuals of Haiti."

Since the last report, 35 penalties, totaling in excess of $146,000, have been collected from U.S. businesses and individuals for violations of the Regulations. Eighteen violations involved unlicensed import- and export-related activity. As of March 4, 1994, 12 payments of penalties assessed against the masters of vessels for unauthorized trade transactions or violations of entry restrictions totaled about $53,000. A significant penalty collection during the reporting period was from American Airlines for its direct payments of taxes and fees to the de facto regime in Haiti.

11. The expenses incurred by the Federal Government in the 6-month period from October 4, 1993, through April 3, 1994, that are directly attributable to the authorities conferred by the declaration of a national emergency with respect to Haiti are estimated at about $3.4 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in FAC, the U.S. Customs Service, and the Office of the General Counsel), the Department of State, the U.S. Coast Guard, and the Department of Commerce.

12. I am committed to the restoration of democracy in Haiti and determined to see that Haiti and the Haitian people resume their rightful place in our hemispheric community of democracies. Active U.S. support for United Nations/OAS efforts to resolve the Haitian crisis has led to the maintenance and enforcement of sweeping economic sanctions. Our diplomatic efforts complementing these sanctions are designed to encourage and facilitate participation by all legitimate Haitian political elements in a broad-based political process that will bring about the fulfillment of the undertakings they made in the Governors Island Agreement so that Haitian democracy can be restored and President Aristide can return to Haiti. Such a political process will enable the lifting of sanctions and the start of Haiti's economic reconstruction and national reconciliation. The United States will continue to play a leadership role in the international community's program of support and assistance for the restoration of democracy and return of President Aristide to Haiti.

I will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 25, 1994.*

ADJOURNMENT FROM TUESDAY, APRIL 26, TO THURSDAY, APRIL 28, 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Thursday, April 28, 1994.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FEDERAL ENERGY RESEARCH PRIORITIES ACT

(Mr. KREIDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KREIDLER. Mr. Speaker, now is the time to redefine the mission of the Department of Energy.

The world has changed.

The cold war is over.

And conservation and renewable energy are the newest weapons in our fight for energy security.

So our research priorities must change too.

Yet hundreds of DOE facilities throughout the country are conducting research based on the past, not the future.

That is why I have introduced legislation, modeled after the Military Base Closure Commission, to evaluate, reconfigure, and close some DOE facilities.

It would cut research spending by 25 percent, saving billions of dollars for taxpayers.

It would redefine our energy priorities for the future.

And it would reduce the deficit, cut unnecessary spending, and get politics out of these decisions.

I urge my colleagues to support this legislation.

GUN CONTROL

(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, according to the Washington Post today, the administration has begun its lobbying blitz on gun control. This is a continuation, of course, of efforts that have been carried on for some time that had to do with follow-up on the Brady bill and will be much like the Brady bill, I think, a feel-good kind of thing.

Nobody who follows gun control legislation felt that the Brady bill would be the end of it. Of course, it simply gave momentum to moving forward until all law-abiding citizens are not allowed to have guns in this country.

Let me tell my colleagues a little bit about the feeling I get from my folks in Wyoming. I hear more about gun control in the town meetings I go to. I hear more about opposition to gun control in the communications I get than any other single issue.

What is the basis for that? One is, most people in Wyoming feel that ownership of guns, legal ownership of guns is a constitutional right. They feel very strongly about that; most people in Wyoming do have guns.

Second, no one really believes that the bad guys are going to go down to Gamble's and sign up for 5 days and come back and pick up their gun. They will get their gun from somewhere else. It is simply an inconvenience to people who legally own guns.

What we need to do is to be tough on criminals, not tough on law-abiding citizens who choose to own a gun.

I agree with my constituents.

RICHARD M. NIXON

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, today I rise to pay my respect to former President Richard Nixon. With his passing, his party lost a great leader. Our country lost a great President. And the world lost a great statesman.

Each life is a mosaic of hills and valleys, of ups and downs. And Richard Nixon knew these extremes with exquisite definition. He stood as an inspiration to all who stumble and make mistakes and must struggle back.

Today I would like to make specific reference to his contributions as a statesman. He opened China to the West. He eased the tensions in the cold war and paved the way for the ultimate demise of communism.

Each day we enjoy our freedom, each day we are not engaged in war and each day, as we as legislators make decisions, some of them wrong ones from which we need to recover, we are indebted to Richard Nixon for his enormous contributions as statesman and for his example.

SERB MILITANTS MUST ABIDE BY NATO TERMS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker NATO has finally stepped in with an ultimatum to the Serbs regarding the eastern Bosnian enclave of Gorazde—stop shelling and withdraw or face NATO air power. It is shameful that Gorazde almost had to fall to aggression before we took this action, and over 700 people died in just a few weeks. Many of us had called for an expansion of the Sarajevo ultimatum in February; indeed, some of us have supported such decisions since the war started in 1992.

Nevertheless, the ultimatum seems to be working. The Serb militants met an interim deadline, albeit very grudgingly, for an initial withdrawal from areas within 2 miles of Gorazde. The shelling has stopped, U.N. peacekeepers are arriving, and the wounded are being evacuated.

We must now avoid the urge to point to this success, back off and forget the Bosnian situation, hoping that it now will work itself out. Time has taught us that this will not happen, and we must therefore keep up the momentum and pressure on the Serb militants.

First, we need to ensure Serb compliance with this evening's deadline for the withdrawal from the approximately 10-mile area surrounding Gorazde.

Second, we must come up with an acceptable, comprehensive settlement that meets the needs of the Bosnians and the international community has the political will to ensure implementation.

Third, we must make it clear to the Serbs that there is no more piecemeal response to their barbaric behavior. Their unwillingness to cooperate and to live up to their promises as we move to a settlement must not be allowed to stand. Instead, punitive force must continually be our response.

I am hopeful that we are moving in this direction. A new international contact group has been established to coordinate policy, and NATO seems resolute in terms of its ultimatum. I hope we have learned that we must keep Bosnia high on the agenda and have the political will to stop the horror that is happening there. A lack of vigilance in countering what will certainly be more Serb testing in the future, will doom Bosnia and Herzegovina and our credibility alike, to the detriment of a new world order we all would like to see.

□ 1210

URGING SUPPORT FOR DISCHARGE PETITION ON THE A TO Z PLAN

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, tax day has passed and we have entered that hazy time of year when every individual in the country works for the Federal Government. Summer will be upon us by the time we are actually earning income for ourselves. Today I rise in support of the A to Z plan.

The bipartisan efforts of my colleagues ROB ANDREWS and BILL ZELIFF offer us the opportunity to restore democracy to the budget process. All Members may offer spending cuts. These cuts will be considered individually, rather than as part of a larger package. Make no mistake, this plan will require many tough choices. There is no room for deals cut in smoky back rooms. For the first time in many years, constituents will know exactly where their spring days go.

This plan offers us the opportunity to shine as we demonstrate our fiscal responsibility or to squirm as we defend our reckless spending practices. I, for one, want to see this debate; but more importantly the American people want to see this debate.

I urge you to support the discharge petition of the A to Z plan. Let us bring responsibility back to the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KREIDLER). 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 on Thursday, April 28, 1994.

VETERANS HEALTH PROGRAMS IMPROVEMENT ACT OF 1994

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4013) to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with necessary flexibility in staffing the Veterans Health Administration, to authorize the Secretary to establish pilot programs for health care delivery, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs would be required to establish an enrollment system for veterans and to provide health care on a competitive basis with other, private health care providers.

(2) In order to be able to implement changes contemplated by proposals for national health care reform, the Secretary of Veterans Affairs must have flexibility to restructure and reform the Veterans Health Administration as necessary without externally imposed constraints on full-time equivalent employee (FTEE) positions levels.

(3) The Office of Management and Budget, as part of an announced plan to require a reduction over five years of 252,000 FTEE positions in the executive branch, proposes to require reductions of FTEE positions totaling 25,493 in personnel of the Veterans Health Administration, a reduction in personnel which would severely impede the ability of the Department of Veterans Affairs to implement national health care reform and to meet the responsibilities of the Department under existing law.

SEC. 2. EMPLOYMENT LEVEL IN VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Chapter 7 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 713. Full-time equivalent employees: limitation on reduction

"(a) During the five-year period beginning on October 1, 1994, no reduction may be made in the number of full-time equivalent employees in the Veterans Health Administration other than as specifically required by a law directing reductions in personnel or positions of the Veterans Health Administration or by the availability of funds. During that period, the personnel of the Veterans Health Administration shall be managed on the basis of the needs of eligible veterans and the availability of funds.

"(b) During the period specified in subsection (a), no law imposing a restriction on hiring by executive agencies for the purpose of achieving workforce reductions shall apply to the Veterans Health Administration.

"(c) No law may be construed as suspending or modifying this section unless such law specifically refers to or amends this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"713. Full-time equivalent employees: limitation on reduction.".

SEC. 3. REPORT ON STREAMLINING.

Not later than January 15, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on streamlining activities in the Veterans Health Administration. The report shall include a description of—

(1) opportunities to improve the efficiency and effectiveness of delivery of health care services in the Veterans Health Administration through consolidation, reorganization, or other means;

(2) plans and actions taken to realize such efficiencies; and

(3) impediments to implementing particular plans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Alabama [Mr. EVERETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4013, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4013 is a bill designed to give the Secretary of Veterans Affairs the tools he needs to manage Veterans Administration's health care system. It would postpone unsound and devastating personnel reductions in Veterans Administration hospitals, outpatient clinics, and nursing homes.

The administration has promised us that the Veterans Administration will be able to compete under health reform. But the Office of Management and Budget has told the Secretary of Veterans Affairs that during the next fiscal year the Veterans Administration will have to cut 5,000 health care employees and slash another 20,000 people by 1999.

I have yet to hear any logical explanation for the policy of applying a Governmentwide reduction in personnel to Veterans Administration's hospitals system. It is a mistaken policy, one which even the Vice President's report on "Reinventing Government" condemns. Let me read from that report:

Federal managers often cite FTE controls as the single most oppressive restriction on their ability to manage. Under the existing system, FTC controls are the only way to make good on the President's commitment to reduce the Federal bureaucracy by 100,000 positions through attrition. But as we redesign the Government for greater accountability, we need to use budgets, rather than FTE controls, to drive our downsizing. FTE ceilings are usually imposed independently of—and often conflict with—budget allocations. They are frequently arbitrary, rarely account for changing circumstances, and are normally imposed as across-the-board percentage cuts in FTEs for all of an agency's units—regardless of changing circumstances. Organizations that face new regulations or a greater workload don't get new FTE ceilings. Consequently, they must contract out work that could be done better and cheaper inhouse. . . . The President should direct OMB and agency heads to stop setting FTE ceilings in fiscal year 1995.

The Vice President is right on target. I only wish he had discussed his feelings with the Director of the Office of Management and Budget.

H.R. 4013, as amended, provides that during the 5-year period beginning October 1 of this year there shall be no reduction other than as specifically required by law or by the availability of funds provided by the appropriations committees and the Congress. If Congress provides funds to support a certain personnel level in Veterans Administration, OMB will not be able to impose arbitrary cuts on Veterans Administration hospitals.

I want my colleagues to know that the bill does not prohibit the Secretary of Veterans Administration from reducing personnel through reorganization, consolidation, or otherwise. I also want to share with my colleagues the views of the many organizations that testified at a March 16 hearing on this measure.

ORGANIZATIONS SUPPORTING H.R. 4013

National Association of VA Physicians & Dentists—"We strongly support (H.R. 4013) to provide VA flexibility in meeting the workforce needs of its health care system."

Paralyzed Veterans of America—"PVA strongly supports (H.R. 4013). This bill would prevent a devastating loss of personnel from the Veterans Health Administration at the very time VA is attempting to marshall all its resources to compete and survive in a reformed national health care system."

Disabled American Veterans—"DAV applauds the recognition of gross contradictions between H.R. 3600—the Health Security Act—and the seemingly mindless requested reduction of some 25,000 full-time employee positions over a five year period."

AMVETS—"* * * we enthusiastically support the bill because VA faces sufficient challenges without significantly downsizing the workforce. * * * AMVETS hopes that Congress will provide VA the ability to choose a scalpel, not a cleaver to cut personnel."

American Legion—"* * * wholeheartedly supports the provisions contained in (H.R. 4013). At a time when VA anticipates implementing the greatest health care delivery changes in its history, the next several years will require VHA to consolidate and reinforce its present capabilities, and not be required to incur debilitating personnel or funding reductions."

Blinded Veterans Association—"* * * strongly supports adoption of this vital legislative initiative."

Nurses Organization of VA (NOVA)—"* * * applauds the introduction of bill (H.R. 4013), legislation that would put off any health care staff reductions until the DVA Secretary can more realistically determine its workforce needs * * * Now, more than ever, is the time to recognize the need for adequate staffing numbers and use budget dollars for official FTE positions. Health and life-saving care cannot be ignored, postponed or sacrificed."

Vietnam Veterans of America (VVA)—"(H.R. 4013) would appropriately insulate the Veterans Health Administration from cuts contemplated in the Fiscal Year 1995 budget, as well as the federal workforce reduction associated with the National Performance Review. Currently, eligible veterans are either turned away from many VHA facilities or simply become frustrated by excessive wait times and forego needed health services because staffing doesn't allow VHA to meet demand. Further cuts would exacerbate this problem and threaten the survival of the veterans' health system with passage of national health reform legislation."

If Veterans' Administration is to compete under any health care reform

plan, State or Federal, we need to pass this bill right away. I urge the adoption of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND], the distinguished chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs.

Mr. ROWLAND. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4013.

H.R. 4013 is an important bill that addresses a very immediate challenge confronting the VA health care system—devastating OMB work force cuts.

Under the fiscal year 1995 budget, VA health care staffing must shrink by some 5,700 positions. While Administration officials testified at a recent hearing that such significant personnel cuts could be absorbed without serious impact, those charged with operating VA medical centers, and the veterans dependent on timely access to care, describe a very different reality.

Personnel cuts in the VA health care system mean one thing for sure—diminished service to its patients. While Administration officials hope to minimize the impact on direct patient care for the short term, they have no formula for avoiding severe problems over the next 4 years when they must shrink the work force by another 20,000.

In February, the committee conducted a survey of all VA medical centers to gauge the impact of such cuts. The survey made it clear that at a minimum these reductions will mean sweeping bed closures, program cuts, and ever-longer waiting times. They could well mean facility closures.

Clearly, VA cannot absorb cuts of this magnitude. Just to achieve mandated reductions in fiscal year 1995, VA plans to let go many of the technicians, software developers, and managers who would be needed to help transform this system to carry out an expanded role under national health care reform.

We have found no way to reconcile an OMB plan to slash more than 25,000 health care jobs with an administration proposal that VA play a major role under national health reform. The Administration certainly has had no answer to the question—how can a long-underfunded health care system gear up for an expanded role under health reform while under orders to dramatically shrink its work force.

H.R. 4013 would answer that question. It would exempt the Veterans Health Administration from these proposed staffing cuts over the next 5 years. As the testimony at our recent hearing and the results of the committee survey point out, this legislation is critically needed.

Mr. Speaker, I urge my colleagues to support this bill.

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Mr. EVERETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4013, as amended, the Veterans Health Programs Improvement Act of 1994.

H.R. 4013, as amended, contains important provisions to curb the potential disastrous impact on VA health care caused by the administration's mandated work force reduction plan.

Such a mandate will bring to a grinding halt any effort to assist VA in positioning itself to compete in a national health reform scenario.

Nobody should misunderstand the thrust of this bill, though, and think it freezes current VA staffing levels.

VA still has the authority to reduce personnel levels subject to the availability of funds and Congress could still direct VA to cut staffing levels by law.

The practical impact of this legislation is not to allow OMB to force personnel reductions that the VA has the appropriated dollars to maintain.

Mr. Speaker, I want to thank the distinguished chairman of the committee SONNY MONTGOMERY, the distinguished ranking member, BOB STUMP, and ranking minority members of the subcommittee on hospitals and health care, ROY ROWLAND and CHRIS SMITH, for their leadership and expertise on these important issues.

I urge the support of my colleagues.

□ 1220

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON], the ranking minority member of the Subcommittee on Education, Training and Employment.

Mr. HUTCHINSON. Mr. Speaker, I rise today in support of H.R. 4013, the Veterans Health Programs Improvements Act of 1994. This bill would provide the Secretary of Veterans Affairs with greatly needed flexibility in staffing the Veterans Health Administration.

When the administration submitted its budget proposal, they requested a level of funding substantially below what it had previously stated would maintain current services to veterans. On top of that, the Veterans Health Administration was required to absorb an unprecedented reduction in total employment as part of the government-wide FTE reductions. These reductions will not only undermine the VA's ability to position itself for an era of health care reform, but will foster inefficiency. Without a restoration of FTE, the VA will have to cut services or delay provision of services at the very time when efforts should be made to expand services and improve their quality.

Perhaps the most important justification for our attempts to improve the VA health care system, however, is our commitment to our Nation's veterans who risked their lives fighting for our country. The very least we can do in return is to offer them a decent standard of health care through a strong VA health care system, capable of providing high quality services responsive to veterans and their special needs.

Mr. EVERETT. Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from Alabama [Mr. EVERETT] for handling this bill today. The gentleman from Arizona [Mr. STUMP], the ranking minority member, is totally supportive of this legislation.

Mr. Speaker, I yield 6 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, let me first say that the veterans of America have no better friend in America than the gentleman from Mississippi, SONNY MONTGOMERY.

General MONTGOMERY, who has served in this body long and with great distinction, is my very close friend.

Mr. Speaker, I agree with the objective of this bill, which is to ensure that the veterans of America continue to have the kind of health care that we have said that they would have and that we ought to deliver to them. That is the objective.

Mr. Speaker, everybody in this body obviously has a program that they believe is particularly important, but let me say on February 10, 1994, the four proponents who have spoken on this bill voted to cut 252,000 people from the Federal work force and they said we were going to save money. I voted for that bill, the Vice President recommended it, but very frankly, folks, what we did was we took a number. We did not make an analogy between the programs that we wanted accomplished and the level of personnel that would be required to accomplish those objectives. No, we took a number. It sounded politically good; it gets us below 1.9 million civilian employees. And it was not targeted, so it was an easy vote. Reduce 252,000 people.

Mr. Speaker, in my own Subcommittee on Treasury-Postal Service-General Government, and Senator DECONCINI feels very strongly, crime is a big problem in America, Americans concerned about the safety in their communities. We are going to dedicate $22 plus billion dollars of this reduction to crime. But that $22 billion will be reduced by 10 percent, $2.2 billion dedicated to crime if we reduce by 10 percent the number of employees we reduce.

Mr. Speaker, this does not do that, however.

Get it someplace else, but not in my backyard. Do not take from me. It is good to cut, but cut someplace else.

Mr. Speaker, I understand my chairman's view, for whom I have unlimited respect and whom I support and will

continue to support for this chairmanship next year, I announce to all my colleagues. Why? Because he has brought vision and commitment; and there is no finer Member of this body, and I lament his leaving, than the gentleman from Georgia [Mr. ROWLAND], and although I do not know them as well, I am sure the proponents on the Republican side are equally sincere.

Mr. Speaker, I want to make sure my veterans have adequate, good, sound health care. I was responsible in main for the building with my chairman's help of a new VA hospital in Baltimore. But I do not delude myself that if we are going to cut funds in discretionary funding that everybody wants to do, $26 billion the Senate wanted to do, it was for free, not targeted, do not have to take any personal responsibility for cutting anything. But come in later, come in later and add on, come in later and fence off, come in later and protect after having said that we are going to make those reductions.

Mr. Speaker, every agency is to participate in these reductions that we passed and share the pain caused by these cuts. Let us look the American public in the eye and say, "There is not a free lunch." If we are going to cut 252,000 people, unlike the perception of some that these folks are not delivering services that the American public want, say, "Yes, we will cut but there is a cost," and this is the cost.

Mr. Speaker, this bill says, yes, there is a cut but it will not be here. Yes, this is important, law enforcement is important, NIH research is important, space research by the votes of this Congress is important, delivering of public Health Services is important, education of our young people is important, fighting drugs is important, protecting our borders with Customs is important. All of these objectives are important.

Mr. Speaker, this bill raises a very fundamental question: Do we continue to make broad conclusions that sound politically good and fiscally responsible and then do what we do all the time, come in and say, "Yes, but don't take mine. Don't take mine."

Mr. Speaker, I oppose this bill, not because I oppose its objective, and I will not ask for a vote on this bill, but I want all of my colleagues to know, and, yes, my veteran supporters that I cannot pretend that there is a free lunch. And, yes, I may support and urge the administration to organize this reduction in force so that we can hold harmless.

Mr. Speaker, I have told my good friend, the gentleman from New York, JERRY SOLOMON, that I will work with him, and I have told my chairman that I will work with him to try to accomplish this objective. But not by fencing off, not by saying that everybody else is subject to risk the consequences of the votes of everybody who is talking on this issue on either side but by consequences of making the tough decisions, not exempting ourselves from those tough decisions.

Mr. Speaker, I thank the chairman for his generosity in yielding me the time.

□ 1230

Mr. EVERETT. I yield such time as he may consume to my good friend, the gentleman from New York [Mr. SOLOMON], ranking member of the Committee on Rules and former ranking member of the Committee on Veterans' Affairs.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker and colleagues, I really do want to commend my good friend, the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Georgia [Mr. ROWLAND], and my successor, the gentleman from Arizona [Mr. STUMP], the ranking Republican, as well as the gentleman from Alabama [Mr. EVERETT], for bringing this bill to the floor. I thank all the other committee members, because I think this is a vital piece of legislation.

Let me say something to the previous speaker, the gentleman from Maryland [Mr. HOYER], for whom I have the greatest respect and with whom I quite often agree on many of his observations. He spoke eloquently about the serious problems in Bosnia and he really did tell it like it is. We will not get into that right now, but let me say that I concur with almost everything that the gentleman from Maryland [Mr. HOYER] said in the well.

It is true that we have very, very valuable Federal employees in very many vital departments and agencies across this Government, and we do not want to single them out. We do not want to say it is a question of getting it from somebody else's backyard.

But let me tell you why we are not really doing that in this particular case. I agree with the gentleman, because in many cases we would be cutting out vital, necessary jobs in drug enforcement or wherever it might be. But in this particular case, on this particular bill, what we are saying is that we cannot have these jobs cut from the medical delivery system of the Veterans' Administration. We can still have those cuts throughout the entire Department of Veterans Affairs, and I think that there is room; cuts could be made there. But the medical people are vital. A growing number of World War II veterans are reaching an age when they need medical care. We have to make sure that care is available to them at VA hospitals.

The problem, and I will be critical of previous Republican administrations as well as the present Democrat administration, is that we went through a period, and the gentleman from Mississippi [Mr. MONTGOMERY] and the other members of the committee remember it so well, when we had forced down the throats of the veterans' hospitals throughout this Nation a 1-percent productivity savings. All that did was to squeeze out the quality of medical care, and it hurt the veterans' hospitals. This was done by Republicans and by Democrats alike, and it was wrong. We ought to keep that in mind, incidentally, ladies and gentlemen, when we get into the national health care debate and we start talking about price controls; that is exactly what price controls will do in the civilian sector as well. Price controls will squeeze out the quality of medical care.

We had previous a speaker talking about my good friend, and someone I deeply admired as the President of the United States of America. You know, he experimented with price controls, and it was perhaps the one major failing of Richard Nixon. He was talked into it by a former Democrat turned Republican named John Connally. That goes back a little ways beyond some of your time, but many of us remember it.

But the point I want to make is that this bill does not take it out of somebody else's backyard. It allows the cuts to continue to be made in the Veterans' Administration, but not out of that vital area of delivering life-saving care for our veterans.

Remember one thing, ladies and gentlemen, the veterans of World War II, which make up the vast majority of veterans today, are now turning 70 years old. Many of them are in their mid-seventies. Some of them are even in their eighties. They need more and more care.

There are to be some jumping exercises at the Normandy invasion reenactment, which the gentleman from Mississippi [Mr. MONTGOMERY] is going to be attending. Some of those guys who were in the Airborne are now 83 years old, and they are going to be jumping there in June.

SONNY, you will be there to watch it, and hopefully I will be, too.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, let me be clear, I am not jumping.

Mr. SOLOMON. You will be there to watch them though, SONNY.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Maryland.

Mr. HOYER. First of all, the gentleman makes a good point, and I understand that point.

I am not going to ask for a vote on this, because the objective, I think, is broadly shared, and I do not want any implication by asking for a vote that

folks trying to make a determination whether or not we guarantee and make sure we have quality health care for our veterans; we want to do that. The way to do that is to work within the framework of that which we have enacted.

Fencing off, I think, in this area simply leads, as I said, to fencing off in other areas and takes the heat off getting the most efficient reduction.

But I agree with the gentleman's objective and want to support that and want to work with him to ensure that that end in fact occurs.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman. I think we are all arguing the same point here.

But I do hope we all support this vital piece of legislation. I would hope that it is enacted.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York [Mr. SOLOMON] for his kind remarks and also to say to the gentleman from Maryland [Mr. HOYER] that he is certainly a strong advocate for veterans. We disagree on this issue, but I have had the privilege of going into his congressional district and working with his veterans' organizations. I certainly look forward to going back to Maryland, which is the home of many of our stronger veterans' advocates.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, it is my intention on final passage to ask for a recorded vote on this measure.

It seems to me that we have set the country on the course of a 10-percent work force reduction in Federal Government personnel over the next 5 years. Even though I share with my colleagues on the Committee on Veterans' Affairs a strong desire that this Department be allowed the resources and the ability to respond adequately to the needs of America's veterans through the health care system, I think it is ill-advised that this Congress tie the hands of the administration in implementing a very difficult work force reduction policy.

One exemption leads to another exemption and another and another. We have seen this repeatedly over the past. I do not think we want to start down that road again on this particular issue.

I trust that this administration, particularly with the leadership of Jesse Brown as Secretary of Veterans Affairs, that he is going to be extremely sensitive to the needs of our VA patients and they will be as careful as possible in implementing any cuts that are required of that Department in a way that will not negatively impact quality health care for the veterans of America.

But I do not believe that we in the Congress, by a vote today, ought to restrict the administration, limit its flexibility, restrict its discretion on this particular issue. This is a management decision on the part of the administration. I do not believe that it is a decision that we ought to micromanage with this legislation, and for that reason I do intend to call for a rollcall vote.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, we had hearings, just to answer the gentleman and certainly not in any way to try to cause him not to ask for a recorded vote, but just by way of explanation, we had a hearing on this very issue recently in the Subcommittee on Hospitals and Health Care, and while those people from the VA and the administration said that we can streamline to the extent that we will be able to deal with this, that was not what we heard from the people who will be working to provide care for those veterans who need the care.

They came and said we cannot streamline to that extent. We heard from the veterans' service organizations as well that it is not possible to streamline to the extent that the administration had said, and if in fact this cut does take place, we can expect there to be decreased service to veterans in the hospital and health care delivery system.

Now, the administration is saying we want the VA to be competitive. The VA must be competitive. How can it be competitive if the administration is cutting the personnel that will be necessary to make that system competitive? It just does not add up.

So I would say to the gentleman that if these cuts do not take place in the way that we have indicated that they ought to, that veterans will suffer.

Mr. EVERETT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

□ 1240

Mr. SOLOMON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to say something to my friend, the gentleman from Minnesota, TIM PENNY—he may be the one I respect the most in this body because he is one Member who really has the guts to stand up here and tell it like it is about the sea of red ink that this Congress and several administrations, the current and the previous Presidents, have been drowning in.

But he made the point that the Secretary of Veterans' Affairs, Jesse Brown, would not stand for unnecessary cuts in the medical delivery system. Well, I can say to the gentleman, "TIM, I will just say to you that it isn't a question of Jesse Brown." He is doing an outstanding job. It is a question of OMB. We all know who OMB is. OMB calls all the shots. It does not matter which administration it is, they give orders to the Secretary of Veterans' Affairs where to make those cuts.

They have been insensitive in the past, and they will continue to be insensitive in the future. That is why we cannot allow cuts to be made in the medical delivery system of the Department of Veterans' Affairs. If we were preventing cuts from being made anywhere in the Department of Veterans' Affairs, I would be the first one up here fighting against this bill. But the fact is that the bill does not do that. We still are allowing cuts to be made equitably throughout the rest of the Department of Veterans' Affairs, and that is why we really ought to be supporting this piece of legislation.

Mr. Speaker, I strongly urge its support.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. I thank the chairman for yielding this time to me.

I really appreciate this time and would just like to briefly and very regretfully speak against the chairman of the Committee on Veterans' Affairs' legislation here. The simple fact is that the entire Federal work force has to be reconsidered, the entire work force is being considered, and to arbitrarily get into the exemption of one agency, a very major agency, of the Federal Government I would say casts real problems and irregularities on the entire process. Obviously, the administration is going to have to have discretion as to how many personnel cuts are going to be achieved in the various agencies and the various functions of those agencies. But if we get into totally exempting one area of this program, we really do major damage to the entire program, and I regretfully oppose the chairman's initiative.

Mr. EVERETT. Mr. Speaker, I yield myself such time as I may consume in order to point out that if this bill should fail, a recent committee survey of the VA medical center directors reveals 74 percent projected they would be forced to close beds, 62 percent projected that they would have to reduce outpatient care workload, and 59 percent projected that they would need to close specific programs.

Mr. Speaker, National Association of VA Physicians & Dentists—"I see no way that we can sustain such a loss without having a direct effect on the quality of patient care. And for this reason, we strongly support (H.R. 4013) to provide VA flexibility in meeting the work force needs of its health care system."

Paralyzed Veterans of America—"PVA strongly supports (H.R. 4013). This bill would

prevent a devastating loss of personnel from the Veterans Health Administration at the very time VA is attempting to marshall all its resources to compete and survive in a reformed national health care system."

Disabled American Veterans—"DAV applauds the recognition of gross contradictions between H.R. 3600—the Health Security Act—and the seemingly mindless requested reduction of some 25,000 full-time employee positions over a 5-year period."

AMVETS—"* * * we enthusiastically support the bill because VA faces sufficient challenges without significantly downsizing the work force. * * * AMVETS hopes that Congress will provide VA the ability to choose a scalpel, not a cleaver to cut personnel."

American Legion—"* * * wholeheartedly supports the provisions contained in (H.R. 4013). At a time when VA anticipates implementing the greatest health care delivery changes in its history, the next several years will require VHA to consolidate and reinforce its present capabilities, and not be required to incur debilitating personnel or funding reductions."

Blinded Veterans Association—"* * * strongly supports adoption of this vital legislative initiative * * * Ironically, several initiatives eagerly pursued by the administration are complicating VA's efforts to position itself for health care reform. The President's fiscal year 1995 budget request for DVA is totally inadequate, severely limiting VHA's ability to even meet current services levels of fiscal year 1994. * * * Further, the administration's National Performance Review [NPR] requires a total Federal work force reduction of 252,000 FTEE over the next 5 years. * * * The budget shortfall and required reductions of over 3,600 FTEE contained in the VHA fiscal year 1995 budget will be absolutely devastating if enacted."

Nurses Organization of VA [NOVA]—"* * * applauds the introduction of bill (H.R. 4013), legislation that would put off any health care staff reductions until the DVA Secretary can more realistically determine its work force needs. * * * Now, more than ever, is the time to recognize the need for adequate staffing numbers and use budget dollars for official FTE positions. Heal.h and lifesaving care cannot be ignored, postponed or sacrificed."

Vietnam Veterans of America [VVA]—"(H.R. 4013) would appropriately insulate the Veterans Health Administration from cuts contemplated in the fiscal year 1995 budget, as well as the Federal work force reduction associated with the National Performance Review. Currently, eligible veterans are either turned away from many VHA facilities or simply become frustrated by excessive wait times and forego needed health services because staffing doesn't allow VHA to meet demand. Further cuts would exacerbate this problem and threaten the survival of the veterans' health system with passage of national health reform legislation."

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding this time to me.

I compliment the chairman of the Committee on Veterans' Affairs and the gentleman from Georgia [Dr. ROWLAND] for their efforts in this bill. I think we are missing the whole goal and the whole sight of the commitment of this Congress and the American people and the commitment we made to the veterans of America.

Mr. Speaker, I have traveled and spoken to a great many veterans groups and also existing military branches, and the biggest concern they have is they feel we are forgetting them.

Mr. Speaker, when our veterans went into service, they were told they would receive medical care. It was a contract made by this Government of ours and this Congress.

All we are asking in this bill is not to exempt but to make sure that that commitment is fulfilled. We can streamline, we should do so, but not take away the ability to provide what we committed to these veterans. If we want to change the rules in the future, that is fine for those coming into the service now. We have veterans who have served their time.

When I was in the service—that is more than I can say for some other people in this Government—but when I was in the service, I was told that if I served my 20 years, I would be given certain benefits. That is one of the reasons I was in the service.

I chose not to stay there, but those people who did stay there expected to have appropriate medical services.

Now, I have watched what happened in some of the veteran hospitals, in, yes, other administrations and even this administration, and I see where the veterans are not being considered equally or with the commitment we made to them when they enlisted.

So, again, I compliment my chairman. I heard the comments a while ago that we all have to cut back and reform this Government. Yes, I happen to agree with that. But let us do it with due contract, do it with new contracts, new entries, with a new system, but let us not break the word that we gave the veterans when they enlisted in Korea, World War II, Vietnam, the Gulf, Grenada. These are our fighting men and women.

The chairman and the Committee on Veterans' Affairs have done the right, the correct thing. They and the ranking member, all of them should be complimented.

Mr. EVERETT. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Every day I have Members come up to me and complain about the service that the veterans are receiving in their veterans hospitals, and every Member in this Chamber has a veterans hospital or an outpatient clinic or a nursing home that his or her veterans use. We just felt very strongly, both Democrats and Republicans, that we needed to look at this reinventing of Government and the effect of this reduction of employees in the different Government agencies. There was no opposition expressed to this measure by Veterans' Committee members when it was ordered reported.

I want to point out that the Veterans' Administration is the second largest employer of civilians, and the military is first. So a cut of 25,000 employees would be devastating to the veterans hospitals; 5,000 jobs would be lost in 1995. We will have to close some more veterans wards. I hope we do not have to close any veterans hospitals.

But we just cannot operate with that type of reduction. That is why we brought the bill up here today, trying to help out these old veterans.

Again, I want to quote from Vice President GORE's "Report of the National Performance Review," which includes statements that I think would be of interest.

The Vice President's report says, and I quote, "We need to use budgets rather than FTE controls to drive our downsizing. FTE ceilings are usually imposed independently and often conflict with budget allocations." Then it goes on further to say, "The President should direct OMB and agency heads to stop setting FTE ceilings in fiscal 1995."

This comes out of the Vice President's report.

They say do it by budget, do not do it by personnel ceilings. So that is why we are here today, that is why we brought the bill up. I thank my colleagues for supporting this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 4013, as amended, the Veterans Health Programs Improvement Act of 1994. This legislation will ban an arbitrary reduction in full-time equivalent employees from the Veterans Health Administration unless specifically required by law or limited funds.

Mr. Speaker, the administration has directed VA to cut up to 25,000 FTE's, some 12 percent of its work force, over the next 5 years. At the same time, the administration has submitted legislation which fully expects VA to compete with private sector health plans to attract veteran patients under the Health Security Act. It would seem that the right hand does not know what the left hand is doing. Plain and simple, we are on the cusp of national health reform and it is not the time for arbitrary cuts in health care employees. This mandated cut in FTE would ensure that VA would be able to compete under whatever health plan is ultimately enacted.

In the era of health reform, at a time when VA is attempting to prepare itself to meet the challenge of reforms, it is a sad commentary that the administration would make such nonsensical requests. Nonetheless, this legislation, if enacted, will once again protect the VA from OMB budget slashers.

I want to commend the distinguished chairman and ranking minority member of the committee, Mr. MONTGOMERY and Mr. STUMP, for continuing to move legislation which protects

our Nation's veterans. As always, they are valuable advocates. I also want to recognize the chairman of the Subcommittee on Hospitals and Health Care, Dr. ROWLAND, for his hard work on this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4013, as amended.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 4013, the Veterans Health Programs Improvement Act of 1994. I commend the distinguished gentleman from Georgia [Mr. ROWLAND] for introducing this worthwhile legislation.

H.R. 4013 will exempt the Veterans Health Administration [VHA] from the mandatory staffing reductions outlined in Vice President GORE's proposal for reinventing Government and the Federal Workforce Restructing Act of 1994, which is now known as Public Law 103–226.

I voted in support of the Federal Workforce Restructuring Act. However, I believe these reductions must not jeopardize or diminish the health care services that our Nation's veterans receive. For this reason, Mr. Speaker, I support H.R. 4013.

Our Nation needs to take the steps necessary to ensure that our veterans receive the finest medical treatment and care. This legislation, which exempts mandatory staffing reductions, is a step in the right direction.

Accordingly, I urge my colleagues to support this legislation.

Mr. BISHOP. Mr. Speaker, I rise today as a cosponsor and an ardent supporter of H.R. 4013, the Veterans Health Programs Improvements Act. This bill would exempt the Veterans Health Administration from a White House proposal that would cut 25,000 VHA full-time positions.

This bill, Mr. Speaker, is intended to keep the VHA strong during a time of tremendous and unprecedented change. Once Congress passes health care reform legislation, the VHA will begin an era of reorganization. If the President's health care package passes, the VHA will be forced for the first time to compete for its patients. The VHA expects its workload to be enormous in the coming years as it tries to cope with the changes brought on by new health care reform laws.

To propose a decrease in the VHA work force when it is certain to have an increase in its workload is unfair and illogical.

As the medical arm of the Veterans' Administration, the VHA is charged with caring for many of the men and women who risked their lives for America and Democracy. For too many of these veterans, the VHA is the only medical care available. Let us not desert our veterans, Mr. Speaker, for they never retreated when we needed them. Health care is one of the few benefits we award veterans for their service—a benefit they earned with blood and sweat on the battlefield. We cannot strip them of this badge of honor.

We owe it to our veterans, Mr. Speaker, to provide them with the best medical service they can be afforded.

This bill, Mr. Speaker, passed the Veterans Affairs Committee as it is not controversial and I urge its passage today by voice vote.

Mrs. THURMAN. Mr. Speaker, today the VA operates the Nation's largest centrally managed health care delivery system. It provides the full continuum of medical care, from primary care and sophisticated tertiary services to rehabilitation and long-term care. The impact of the VA's role in the current national health care environment is immense.

Under the Federal Work Force Restructuring Act, the number of cuts to the Veterans Health Administration are completely arbitrary. Employment cuts are not based on any study, methodology, or analytic framework. We are not just talking about streamlining a Government agency or forcing efficiency. In no uncertain terms, this bill challenges effective delivery of health care to those involved in the VA health system.

The Veterans Health Administration is committed to streamlining operations, and under this measure, the Veterans Health Administration could still be required to make personnel cuts by a future law which specifically directed them to do so.

The real issue here is: where should these cuts be made? Across-the-board cuts over the entire system do not answer the problems facing the Veterans Health Administration in the light of health care reform.

In some parts of our country, beds and treatment are plentiful and accessible. Unfortunately, however, the Veterans Health Administration is pushed to the limit to accommodate health needs in certain areas. An arbitrary cut across the board would only exacerbate this problem. This bill provides us with an opportunity to avoid such a situation.

With over 2,000 veterans moving to Florida each month, care provided by the Veterans Health Administration is being spread out thinner and thinner. Because Florida's population is growing so quickly, it is difficult to imagine the Veterans Health Administration being able to provide the present level of care, in my State, with approximately 1,400 less full time employees.

We will have the ability to improve efficiency and effectiveness within the Veterans Health Administration, whether through consolidation or reorganization but we must also recognize the changes taking place throughout the country, like those in Florida, and act accordingly.

Passage of this measure will allow us the opportunity to discuss and implement an effective and constructive law directing reductions in the Veterans Health Administration. The future of the Nation's largest managed health care delivery system is too important to allow broad-based sweeping changes to affect it.

Ms. LONG. Mr. Speaker, I strongly support H.R. 4013, the Veterans Health Programs Improvement Act. This legislation is necessary if we expect the Department of Veterans Affairs to provide quality care to our veterans.

A recent editorial indicated that it would be hypocrisy for fiscal conservatives to support this measure. I ardently disagree. As a fiscal conservative, I believe that there are many areas of the Federal Government where we can make additional cuts. In fact, I supported the Penny-Kasich amendment to make $90 billion of specific cuts.

If we ask the Veterans Health Administration to provide quality health care to our veterans, then we must provide them with the necessary personnel to do so. If we ask the DVA to compete under health care reform, then we must not force them to comply with arbitrary staffing levels driven solely by Federal budget concerns. Such a handicap would virtually guarantee the demise of the VA.

Yes—support for this measure will place additional pressure on other departments and programs to cut additional personnel. But it is our job to establish priorities for Federal programs. Without H.R. 4013, we will tell the veterans who use the DVA, predominately older, sicker, and poorer veterans, that they are not a priority of this Congress. I, for one, am not willing to say that. Please support H.R. 4013 when it comes to the floor of the House for a vote.

Mr. BURTON of Indiana. Mr. Speaker, as one of the original sponsors of the Burton-Penny amendment to lock in reductions of 252,000 in the Federal work force, I feel very strongly that we move ahead with downsizing the Government. However, we must not make those reductions in a haphazard or arbitrary way.

One of the principles that ought to be guiding these efforts is that we should be eliminating wasteful layers of management so that we can preserve front-line personnel who are delivering services directly to the American people. That is why I support H.R. 4013, the Veterans Health Programs Improvement Act of 1994. This bill would exempt the veterans health care system from reductions under this work force reduction initiative.

The veterans health care system has been underfunded for a number of years, severely restricting services they can provide to veterans who have served their country. If we apply these cuts in full-time equivalents to the veterans hospitals, we are going to lose doctors, nurses, and other health care professionals who directly care for our veterans. Instead, we should be making cuts in other parts of the Veterans Administration and in other agencies that do not provide such direct and essential health care services.

As we pare down the Federal Government and reduce the work force, we must concentrate on excessive headquarters staff and unnecessary layers of bureaucracy so that direct services to the public can be preserved. This is the essence of reinventing Government. That is why I support H.R. 4013, and support eliminating unnecessary positions in other sections of the Department of Veterans Affairs and other agencies.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KREIDLER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 4013, as amended.

The question was taken.

Mr. PENNY. 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.

PROVIDING FOR POISON CONTROL CENTER SERVICES

(Mr. TOWNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TOWNS. Mr. Speaker, today my esteemed colleagues, Ms. BYRNE of Virginia, Miss BARBARA-ROSE COLLINS of Michigan, Ms. MARGOLIES-MEZVINSKY of Pennsylvania, Mrs. MORELLA of Maryland, Ms. NORTON of the District of Columbia, Mr. PAYNE of New Jersey, and I are introducing a concurrent resolution to express the sense of the Congress that any health care reform legislation provide for poison control center services.

□ 1250

Poison control centers save lives and save money. Every $1 spent on poison centers saves about $8 in unnecessary visits to emergency rooms.

Tragically, poison centers are closing across the country, but closing poison control centers merely drives up the costs of health care, places the lives of millions of children at risk.

Mr. Speaker, closing poison centers is health care's retreat, not health care reform. The Nation needs to move forward, not backwards. Providing poison control services to all Americans would actually save $545 million in the Nation's health care bill.

The public is demanding health care reform that makes sense. Poison control centers make sense. I urge my colleagues to support the resolution.

Mr. Speaker, the resolution has been endorsed by the American Association of Poison Control Centers, the American Academy of Pediatricians, and the Consumer Federation of America. All have endorsed this resolution, which is a cost-saving resolution that makes sense, and I urge my colleagues to support this resolution.

PROVIDING FOR CONCURRENCE WITH S. 1636, MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1994

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 412) providing for the concurrence by the House with an amendment in the amendment of the Senate to the amendment of the House to S. 1636.

The Clerk read as follows:

H. RES. 412

Resolved, That upon the adoption of this resolution the bill (S. 1636), entitled "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", with the Senate amendment to the House amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

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.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) RELATIONSHIP TO OTHER LAW.—Except as otherwise expressly provided, nothing in this Act is intended to amend, repeal, or otherwise affect any other provision of law.

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) IN GENERAL.—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 inserting 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";

(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 subparagraphs (B) and (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 or specific measures 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) 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 pursuant to a cooperative agreement under section 119.

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

"(I) permissible methods of taking by harassment 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 taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 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 taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, 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 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 cir-

culation, 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) or (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 taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking 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 species 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 a 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 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 significant 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.

"(vi) This subparagraph 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).'; and

(6) 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;

"(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.".

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentences: "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 of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) 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.".

(c) TAKING IN DEFENSE OF SELF OR OTHERS.—Section 101(c) (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 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. The Secretary may seize and dispose of any carcass.".

SEC. 5. 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 adding at the end the following: "Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 101(a)(5) or 306, or subsection (h) of this section.";

(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 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 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 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 injury to a species, stock, 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) 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 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 shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies."; 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 but not imported 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 by the applicant. 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 the maintenance of the affected population stock at a sustainable level;

"(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).

"(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

"(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

"(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 population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks 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. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d), as so redesignated by this Act, is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "and" at the end of clause (i); and

(B) by inserting at the end the following new clause:

"(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and"; and

(2) in subsection (d) by inserting after "For purposes of carrying out this title" the following: "and section 104(c)(2)(D)".

SEC. 7. REGULATIONS AND ADMINISTRATION; APPLICATION TO OTHER TREATIES AND CONVENTIONS.

(a) MEASURES FOR IMPACTS ON STRATEGIC STOCKS.—Section 112 (16 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(e) If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.".

(b) INTERNATIONAL POLAR BEAR CONSERVATION.—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. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

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

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENTS OF COMMERCE AND THE INTERIOR.—Section 116 is amended to read as follows:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this title (other than sections 117 and 118) and title IV, $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, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this title, $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.".

(b) MARINE MAMMAL COMMISSION.—Section 207 is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission, for purposes of 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.".

(c) REPEAL.—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 and 1407), is repealed.

SEC. 10. STOCK ASSESSMENTS.

Title I (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, in consultation with the appropriate regional scientific review 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 human-caused mortality and serious injury of the stock by source and, for a strategic stock, 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 the appropriate standard 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 human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(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 shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks;

"(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.

"(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 Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), 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 review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

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

"(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

"(F) 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.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review 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. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I (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 subsection, 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 within 7 years after the date of enactment of this section.

"(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 species 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 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.

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

"(b) 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 7 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 and serious injury 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 additional information is required to accurately assess 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 (f).

"(c) 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(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries 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 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 exemption 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 (e); and

"(iv) comply with any applicable 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 (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, 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 (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 (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) 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 (e) 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 authorization under this section for an owner who complies with the requirements of this section.

"(B) 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.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

"(5)(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.

"(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. 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 (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(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 and injury, 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 commercial 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 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 listed as endangered species 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 strategic stocks.

"(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) 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) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(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 Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) 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.

"(e) 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.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(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 (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality 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 for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality 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.

"(3) If there is insufficient funding available to develop and implement a take reduction plan for all such stocks that interact with commercial fisheries listed under subsection (c)(1)(A) (i) or (ii), the Secretary shall give highest priority to the development and implementation of take reduction plans for species or stocks whose level of incidental mortality and serious injury exceeds the potential biological removal level, those that

have a small population size, and those which are declining most rapidly.

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under section 117(b) and any substantial 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 or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury; and

"(D) recommended dates for achieving the specific objectives of the plan.

"(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.

"(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, 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.

"(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 117(b) for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a 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 request a 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 take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury 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.

"(D) 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.

"(E) Members of 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.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

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

"(ii) Such draft 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 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 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 take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

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

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the 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 take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the 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) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

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

"(ii) Such draft 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 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 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 take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

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

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the 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 take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the 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.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a 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, in accordance with subsection (d), 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.

"(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) 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 a take reduction team under paragraph (6) 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 a 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 take reduction team for such stock for the purpose of amending the 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 (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a 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 a 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).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species 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.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the 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 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 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 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 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 a take reduction plan does not exist and is not being developed, or in the case of a commercial fishery listed under subsection (c)(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 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 on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the 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 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.

"(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.

"(h) PENALTIES.—Except as provided in subsection (c), 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 shall establish by regulations.

"(i) 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 mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) 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.

"(l) DEFINITIONS.—As used in this section and section 101(a)(5)(E), each of the terms 'fishery' and 'vessel of the United States' has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure 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, breathing, 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 'strategic stock' means a marine mammal stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(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; or

"(C) which 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 designated as depleted under this Act.

"(20) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level 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 of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(21) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(22) 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.

"(23) 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.

"(24) The term 'take reduction plan' means a plan developed under section 118.

"(25) The term 'take reduction team' means a team established under section 118.

"(26) 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.

"(27) 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. 13. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" after "thereunder".

(c) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting "114, and 118 of this title and title IV".

SEC. 14. 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(b) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) (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 September 1, 1995, 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 by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this Act, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. 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, 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. 18. 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. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I (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. 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 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 116.".

SEC. 20. 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 paragraph (1) shall be conducted in Alaska. The Secretary of Commerce 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. 21. 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. 22. 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 200 and NS-16. Such property shall include Pier R, the buildings known as RTC-1, RTC-4, 200, and 1874, all towers and outbuildings on that property, 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.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I (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. PACIFIC COAST TASK FORCE; GULF OF MAINE.

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

"(b) APPLICATION.—(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

"(C) migrate through the Ballard Locks at Seattle, Washington.

"(2) 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 taking.

"(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 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 under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking 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 such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking 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 intentional lethal taking, 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 intentional lethal taking 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 Pinniped-Fishery Interaction 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 injury or impact to, 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 the intentional lethal taking of any pinniped from a species or stock that is—

"(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(2) depleted under this Act; or

"(3) a strategic stock.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—

"(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—

"(1) The Secretary may 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 conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(A) fish behavior in the presence of predators generally;

"(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(D) other issues the Secretary considers relevant.

"(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

"(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds 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 of this section, the Secretary shall after notice and opportunity for public comment 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.

"(i) REQUIREMENTS APPLICABLE TO TASK FORCES.—(1) Any task force established under this section—

"(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

"(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion.

"(j) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.".

SEC 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been

amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "in section 118 and title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Act (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) FURTHER AMENDMENTS TO TITLE IV.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by subsection (b) of this section and the sections that are redesignated by subsection (b) 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.".

(d) CLERICAL AMENDMENTS.—The portion of the table of contents in the first section of the Act relating to title I is amended by adding at the end the following new items:

"Sec. 117. Stock assessments.
"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.
"Sec. 119. Marine mammal cooperative agreements in Alaska.
"Sec. 120. Pacific Coast Task Force; Gulf of Maine.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

SEC. 25. 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 May 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 (Mr. KREIDLER). 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, S. 1636 reauthorizes the Marine Mammal Protection Act of 1972 [MMPA]. Following more than a year of negotiations with the fishing industry, the public display community, the oil industry, environmental and animal welfare groups, and Alaska Natives, on March 21 my colleagues and I brought to this floor a good bill—a bill that focused the limited resources of the affected Federal agencies where they are most needed, maintained the zero mortality rate goal of the act, and provided protection for the essential habitats of marine mammals. Most importantly, the bill enabled our fishermen to continue fishing while still protecting whales and dolphins for future generations to enjoy, as is clearly the wish of the American people. That bill passed the House overwhelmingly under suspension of the rules.

On March 22, after 24 hours of intense negotiations with our colleagues in the other body, we returned to this floor and asked you to consider a negotiated text. The clarifications and additional provisions contained in that text made a good bill even better, and again this body approved the bill under suspension of the rules.

Sadly, within 24 hours that bill was completely stalled in the Senate for reasons which have nothing to do with marine mammals, nothing to do with fishermen, and—quite frankly—nothing to do with the good faith negotiations in which I, the gentleman from Texas [Mr. FIELDS], the gentleman from Alaska [Mr. YOUNG], and the rest of my colleagues have been engaged for the past year.

For the past month, we have made every effort to resolve the concerns of special interest groups—particularly the timber industry—who would prevent this legislation from being enacted while they forward their own agenda. We now again ask you consideration of this bill.

Most of the provisions of S. 1636 are unchanged from the bill passed by this body on March 22. Let me begin by telling you what is not in this legislation. It does not contain a hidden agenda to secretly influence the private property battle under the Endangered Species Act. There is not a secret attempt to shut down any industry. There is not a change in the definition of take and there is no reference to the term harm. There is a provision which clarifies the Secretary's existing authority to develop and implement conservation measures when impacts on areas of special ecological significance to marine mammals, such as mating grounds, are so severe that the existence of a marine mammal stock is threatened. Those conservation measures must be developed in consultation with regional scientific review groups representing a broad range of interests.

Mr. Speaker, let me briefly explain the most substantive change we have made to this bill since its original passage by the House. From the beginning of our negotiations on this legislation, one of our goals has been to provide adequate protection for the important habitats of marine mammals. Over the past 20 years, one lesson has been made clear: that we cannot protect the creatures of this world without protecting their essential habitats. For marine mammals, that translates into protecting feeding grounds, rookeries, nursery grounds, migration paths and the like.

Originally we had amended the definition of "take" in the MMPA to include "harm"; we then defined "harm" to include destruction of significant marine mammal habitats. Unfortunately, some special interest attorneys feared that this change in the MMPA would affect pending litigation concerning the Endangered Species Act. While I do not believe that a court would consider changes to the MMPA as relevant to the ESA, others did—and it quickly became clear that we had to change our strategy to accomplish our goal.

Consequently, we have amended section 112 of the MMPA to explicitly require the Secretaries of Interior and Commerce to give more consideration to the protection of marine mammal habitats. The new language supplements the Secretary's existing authority to protect habitats for species such as polar bears under section 112, as noted in the Merchant Marine and Fisheries report. Since we have created a new process under this act for assessing risks to marine mammal stocks, the new subsection is also intended to assure that the information gained through that process is also applied to habitat protection.

I believe that this approach accomplishes our basic goal of habitat protection while keeping this important reauthorization legislation clear of the litigation quagmire that has so bogged down the reauthorization of the Endangered Species Act.

I would also like to take this opportunity to stress the concerns that have arisen during the reauthorization process regarding west coast populations of seals and sea lions, and to urge the National Marine Fisheries Service to make funding for the study of these issues a priority in the coming fiscal year.

S. 1636 represents good, responsible public policy. It deals fairly with the concerns of fishermen from the shrimpers of Louisiana, to the gillnetters of Massachusetts, to the factory trawlers of Alaska. The fishing industry wants this legislation passed. The administration wants this legislation passed. Environmental organizations want this legislation passed. The zoos and aquariums of this country want this legislation passed. And, as a result of the changes we have made to the original language, the timber industry and the property rights movement do not object to the bill.

On May 1, the MMPA exemption for commercial fishermen expires. If this Congress does not pass a reauthorization by that date, our fishermen face the disastrous possibility of violating the MMPA simply by going about their business. Time is running out. Our colleagues in the Senate are standing by, ready to act on this legislation. Let us get it done.

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 this resolution which makes in order the adoption of S. 1636, a bill to reauthorize and amend the Marine Mammal Protection Act [MMPA] of 1972. This bill has passed the House before and our action today will send it back to the Senate for their final approval.

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 has considered a variety of issues during the reauthorization process. I say to the gentleman, "It was a pleasure working with you, Chairman STUDDS, and the other Members to draft language for the consensus document before us today. While there may be a difference of opinion on certain isolated provisions, S. 1636 is the result of many long hours of hard work, determination, and compromise."

Mr. Speaker, as you know, we face a May 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 does indeed establish a process where good science, scientific working groups, take reduction teams, and stock assessment are all used in rational decisionmaking rather than emotional or moral judgments.

S. 1636 also allows the importation of polar bear trophies from Canada—a country whose polar bear population is healthy. Canada's polar bear 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.

Mr. Speaker, as author and cosponsor of these amendments, I would like to discuss several aspects addressing the importation of polar bear trophies from Canada. Let me first state that it is not the intent of the language that the Secretary attempt to impose polar bear management policy or practices on Canada through the imposition of any polar bear import criteria. Canada is the only country which allows polar bears to be harvested by nonresidents through a monitored and enforced sport hunt program carried out in the Northwest Territory. This program identifies individual management units and various polar bear subpopulations. The term "population stock" as defined in the MMPA means a group of marine mammals of the same species in a common spatial arrangement and is used in the bill to refer to these subpopulations and management units which reflect Canada's management regime.

The language allows the Secretary to issue an importation permit to an individual who submits with the permit application proof that the polar bear was legally taken by the individual in Canada. Our intent with this permitting provision is limited to the hunter who actually took the polar bear and who desires to import the trophy. If an individual who has legally taken a polar bear dies prior to the importation, the heirs of that person's estate should be able to apply for an importation permit, provided the necessary documentation is made available.

The language requires the Secretary to undertake a scientific review of the impact of permits issued under this bill on the particular polar bear subpopulation or management unit from which the bears were taken. This review is to be undertaken within 2 years after enactment. It requires the Secretary to issue import permits for sport-hunted polar bear trophies unless the best scientific evidence objectively demonstrates that the permits that have been issued have had a significant adverse impact on the affected polar bear subpopulation.

A significant adverse impact means more than a simple decrease, ordinary fluctuation, or normal change in the population cycle. A decline should not be considered significant if the decline is of short duration, affects a minuscule percentage of the population, or does not jeopardize the sustainability of the species in the long term. The decrease must be proven to be directly related to the trophy imports by sport hunters and of such a magnitude as to warrant suspension of those imports. Even so, the issuance of permits should not be suspended unless Canada does not reduce the harvest quota in response to this decline.

The Secretary is further authorized to conduct an annual review of this determination at his discretion. If the Secretary does undertake a review, it is required that the review be completed by January 31 of the year in which the review was undertaken. During this time, the Secretary may not refuse to issue permits solely on the basis that the review has not been completed by January 31. Our intent is that each subsequent review would be based on the best scientific information available.

Mr. Speaker, I do not object to the addition of these additional requirements for review of Canada's polar bear management program. I believe that when hunting is managed properly with any species, that activity does not impact on the sustainability of that population. Sport hunting of polar bears in Canada has been shown to be beneficial to and instrumental in conserving the species.

Again, Mr. Speaker, it has been a pleasure having the opportunity to work with the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] to ensure that our marine mammal resources are properly managed. 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 my good friend, the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of this resolution and urge its adoption by the House.

Mr. Speaker, this bill is almost identical to a bill which passed the House nearly a month ago. Unfortunately, at that time the other body disagreed with one of the House provisions and returned the bill to us. Since then, we have come to agreement with the other body and it is my understanding that what we pass today will be accepted and sent to the President for his signature.

The issue of concern was whether the House was accidentally affecting other laws and the resolution of pending court cases. Let me assure you that this was not our intent. We have resolved the issue in two ways:

First, we have made clear that nothing in this bill is intended to amend, appeal, or otherwise affect any other law; and

Second, we have added specific language giving the Secretary authority to regulate activities affecting crucial marine mammal habitat, but only if those activities are leading to the decline of, or impeding the recovery of, a marine mammal that is already in danger.

Let me make clear that this is no way involving the taking of private property. In fact, our staff was unable

to come up with a single example of where private property might exist that served as a rookery or mating area for marine mammals. The intent is simply to have the Secretary and users of marine areas exercise some common sense. For example, if vessels are running over marine mammals when coming into port, there is no reason why they shouldn't be asked to slow down when marine mammals are present. The State of Alaska has taken the initiative in this area by banning vessel traffic around the Round Island Walrus Sanctuary at a time when walruses are present. There is no reason that the Federal Government can't be equally as sensible.

Finally, Mr. Speaker, I want to remind my colleagues that we are facing a May 1 deadline on the expiration of the current commercial fishing exemption. I hope that my colleagues will let our commercial fishermen keep working by not asking for a recorded vote on this measure.

Again, Mr. Speaker, this is a good bill, one that has been worked on by all the members of this committee. Our members and staff have put hundreds of hours into refining this measure and I urge that it be adopted.

I want to compliment the members of the staff; as has been mentioned before, Mr. Moore who works for me, other members of the staff who work so well, and especially the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Texas [Mr. FIELDS]. This legislation has been worked out as a compromise, and it shows what can be done in this Congress when we work together. This is a bipartisan effort to solve a very crucial problem that affects my State and other areas, coastal areas, of America.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong support of the Marine Mammal Protection Act and commend the parties for bringing forth this renewed public policy which is so important.

Mr. Speaker, my State has the responsibility to safeguard the presence of marine mammals, endangered species in many instances, the humpbacked whale specifically. Recently we were advised that an under-ocean experiment was to be conducted by Scripps Institution. We were very concerned that the ramifications of such an experiment had not been fully disclosed or analyzed. We were pleased to note that an EIS will be undertaken and that the public will have further opportunities to comment.

Mr. Speaker, were it not for the public policies established under the Marine Mammal Protection Act and other legislation these species would not have this kind of protection.

So, I commend the committee for coming forth with this legislation.

Mr. Speaker, by unanimous consent to include extraneous matter, I include with my remarks the joint testimony the gentleman from Hawaii [Mr. ABERCROMBIE] and I presented at the hearings recently held on Kauai on April 15, as follows:

JOINT STATEMENT ON THE PROPOSED SCRIPPS INSTITUTION ACOUSTIC THERMOMETRY OF OCEAN CLIMATE (ATOC) PROJECT OFF KAUAI

To the National Marine Fisheries Service: Thank you for calling this public hearing in the State of Hawaii to hear comments and concerns from the people of Hawaii about the Acoustic Thermometry experiment planned off the island of Kauai.

We were both unaware of these proposed tests until after the public hearing on March 22, 1994 held in Silver Spring, Md. We read about the tests from newspaper accounts after the hearing. We then joined the Chair of the House Committee on Natural Resources in requesting that hearings be held in California and Hawaii before making a decision on these permit applications.

We are dismayed to learn that federal funds have already been expended in pursuit of this experiment, without public notice and without preparation of an environmental assessment.

We specifically request an explanation of how much of the funds of this project have already been expended and for what purpose, and under what authority.

We also request information on the permit process and why it is that the permit application was not required early on so that the public could have had advance information on the plans and began an inquiry long ago to learn its precise ramifications.

We also request an examination of the various laws that apply in this instance to determine whether the permit application noticed under Section 1361 is adequate under scientific research or whether it should have been filed under Section 1371 (a)(5) regarding incidental taking.

At this late date, we are caught by surprise and without adequate time to investigate the various factors regarding the efficacy, need, validity, duration and other matters in regard to this permit application.

We believe that the National Marine Fisheries Service has a legal responsibility under the law to protect, maintain, and enhance living resources required by endangered species that depend upon these marine areas to survive and propagate.

Further Section 304 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended in 1992 (16 USC 1434), states "Federal agency actions internal or external to a national marine sanctuary, * * * that are likely to * * * injure any sanctuary resource are subject to consultation with the Secretary."

Has this consultation occurred and has a written statement to the Secretary been supplied within the time required?

We ask this question because we are informed that the regulations pertaining to this section have not yet been promulgated. In the absence of any regulations, we question whether a permit can be issued until such consultation as required by law has occurred and whether any permit can issue if there are no regulations governing the process of obtaining this consultation?

After the consultation the statute provides that if the Secretary of Commerce finds that the federal action is likely to cause a loss or injure a sanctuary resource, the Secretary shall recommend reasonable and prudent alternatives which may include taking the action elsewhere in order to protect the sanctuary resource.

Section 306 of the Act of 1972, as amended in 1992, under Prohibited Activities states that "It is unlawful to destroy, cause the loss of, or injure any sanctuary resource". Section 312(a)(1) of the Act of 1972, as amended, invokes civil penalties.

Under the Endangered Species Act Section 7 requires consultations with the "Secretary to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of the habitat of such species."

Under the law entitled Hawaiian Islands National Marine Sanctuary Act, Section 2301(7), states that the Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands; and (8) the marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage and loss of their ecological integrity from a variety of disturbances.

The Hawaiian Islands National Marine Sanctuary Act defines the term "adverse impact" as an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys or otherwise harms.

Section 2304 of the Act states that it is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian islands marine environment.

The statutory enactments that we have cited require that the federal agency seeking to alter this marine environment which now bathes and nurtures marine life including endangered species have the burden of proof to show that what they propose to do will not in any way have an adverse impact on these species.

Noise as a disturbance is of common knowledge. Merely because it is transmitted in the deep ocean does not necessarily mean that the noise will be mitigated. We know that noise from low flying aircraft disturbs the whales.

Adverse reaction is not confined to physical harm such as ruptured tympanic membranes. Adverse reaction could be driving the whales and other species away from the site to avoid the noise. Adverse reaction could be driving the whales and others permanently away from the area, not just the specific site. The noise could result in the whales leaving the Kauai area totally.

Adverse reaction could mean that the whales behavior would be altered. The behavior change could alter their breeding and could even prevent calving. Do you know enough about the behavior of these species to be certain that these adverse reactions would not occur?

What is the need to take this risk? Why not move this project away from the breeding grounds of the whales and other endangered species?

We have taken the extraordinary step to declare certain of our species as endangered. Having done that, we have a special duty to safeguard these species from deliberate man-made harm.

In addition to the whales, several other species are sighted in the waters off Kauai. Four Odontocete species have been found: Bottlenosed dolphins *(Tursiops gilli)*, false killer whales *(Pseudorca crassidens)*, spinner

dolphins *(Sternella Longirostris)* and spotted dolphins *(Stenella attenuata)*. In addition there is the green sea turtle *(Chelonia Mydas)* that frequents these waters between breeding and nesting. And we have the most endangered of all, the Hawaiian monk seal *(Monachus schauinslandi)* sighted on Kauai in 1988, in 1993 and one as recently as last week.

It is not necessary that these animals be disturbed at all.

ATOC is a contradiction to the concept of conserving and nurturing a protected species.

ATOC adds a disturbing element to the natural marine environment which is contrary to the concepts of conservation and preservation.

Hawaii has a special responsibility to save the whales. Hawaii was once the whaling capital of the Pacific. We witnessed the decimation of the whale population. Now we have the whales returning, trusting us to protect them and their vastly diminished numbers.

Creating a humming device placed in the deep ocean to test the changes in ocean temperature through the measuring of the time that sound passes through the ocean to a point as far away as 6000 miles is an experiment which it is argued is needed to test theories of global warming. Given the nature of the likely minuscule recorded changes required to be taken over a long period of time, we are talking about tests being continued over many, many years, likely into the decades of time. This permit ought not to be granted precipitously.

We urge the National Marine Fisheries Service to fully study this matter until it has substantial investigations which indicate that there is no likelihood of disturbance or harm to this habitat.

This permit should not be issued on the basis that the degree of impact is not known. It is precisely because the impact is not known, that we should not proceed until we are satisfied that no likely harm will occur.

We have been advised that the record of these hearings will be left open until May 6th. We have also been advised that an Environmental Impact Statement will be required, and that the public will have 45 days after its publication to submit comments. We specifically request that after the EIS has been prepared in Draft form that another public hearing be held before it becomes final.

It is extremely difficult to testify at these hearings as members of the public not privy to information and data available to the advocates and without the benefit of an environmental assessment or EIS upon which to base our comments.

Accordingly we offer these preliminary remarks in the hope that the National Marine Fisheries Service will be advised of our deep concern that our public responsibility is being compromised.

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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 yield myself such time as I may consume.

Mr. Speaker, before yielding back the balance of my time, I would like to echo the remarks of the gentleman from Texas [Mr. FIELDS] and the gentleman from Alaska [Mr. YOUNG]. The tranquil seas we see on the floor now have been preceded by an occasional storm and squall of controversy. Some of them have been quite intense, and this really is a testimony to the extraordinary bipartisan spirit of this committee and a very competent staff on both sides of the aisle that we can bring to the Members the tranquillity we see before us now.

Mr. CUNNINGHAM. Mr. Speaker, I rise in strong support of House Resolution 412. 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 a myriad of 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 MMFS 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 the 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 not 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 public 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. S. 1636 is an excellent bill, with strong bipartisan support. I urge the House to pass it without delay.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and 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 Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution, House Resolution 412.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HUMAN SERVICES AMENDMENTS OF 1994

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4250) to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes; as amended.

The Clerk read as follows:

H.R. 4250

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 "Human Services Amendments of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEAD START PROGRAMS

Sec. 101. Short title; references in title.
Sec. 102. Definitions.
Sec. 103. Services.
Sec. 104. Authorization of appropriations.
Sec. 105. Allocation of funds.
Sec. 106. Report.
Sec. 107. Designation.
Sec. 108. Monitoring and quality assurance.
Sec. 109. Enhanced parent involvement and transition coordination with schools.
Sec. 110. Facilities and administrative requirements.
Sec. 111. Participation.
Sec. 112. Initiative on families with infants and toddlers.
Sec. 113. Appeals, notice, and hearing.
Sec. 114. Goals and priorities for training and technical assistance.
Sec. 115. Staff qualifications and development.
Sec. 116. Research, demonstrations, evaluation.
Sec. 117. Announcements and evaluations.
Sec. 118. Reports.
Sec. 119. Repeals.
Sec. 120. Consultation with the Corporation for National and Community Service.
Sec. 121. Study of benefits for Head Start employees.
Sec. 122. Study of full-day and full-year Head Start programs.
Sec. 123. State dependent care development programs.
Sec. 124. Reauthorization of Child Development Associate Scholarship Assistance Act of 1985.
Sec. 125. Technical and conforming amendments.
Sec. 126. Effective date; application of amendments.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

Sec. 201. Short title and references.
Sec. 202. Authorizations of appropriations.
Sec. 203. Discretionary authority of Secretary.
Sec. 204. Community food and nutrition.
Sec. 205. Instructional activities for low-income youth.
Sec. 206. Amendment to Stewart B. McKinney Homeless Assistance Act.
Sec. 207. Amendments to the Human Services Reauthorization Act of 1986.
Sec. 208. Effective date.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

Sec. 301. Short title and references.
Sec. 302. Statement of purpose.
Sec. 303. Authorization of appropriations.
Sec. 304. Emergency funds.
Sec. 305. Authorized uses of funds.
Sec. 306. Targeting of assistance to households with high home energy burdens.
Sec. 307. Clarification of audit requirement.
Sec. 308. Use of Department of Energy weatherization rules to achieve program consistency.
Sec. 309. Matters to be described in annual application.
Sec. 310. Report of funds available for obligation.
Sec. 311. Miscellaneous and technical amendments.
Sec. 312. Residential energy assistance challenge option (R.E.A.Ch.).
Sec. 313. Sense of the Congress regarding appropriations for LIHEAP.
Sec. 314. Effective date.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

Sec. 401. Short title.
Sec. 402. Community-based family support and family resource programs.
Sec. 403. Federal Council on Children, Youth, and Families.
Sec. 404. Family Resource Act.

TITLE I—HEAD START PROGRAMS

SEC. 101. SHORT TITLE; REFERENCES IN TITLE.

(a) SHORT TITLE.—This title may be cited as the "Head Start Act Amendments of 1994".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this title 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 Head Start Act (42 U.S.C. 9831 et seq.)

SEC. 102. DEFINITIONS.

Section 637 (42 U.S.C. 9832) is amended—

(1) by striking paragraphs (4) and (5);

(2) by adding after paragraph (11) the following:

"(12) The term 'family literacy services' means services and activities that include interactive literacy activities between parents and their children, training for parents on techniques for being the primary teacher of their children and full partners in the education of their children, parent literacy training (including training in English as a second language), and early childhood education.

"(13) The term 'Indian tribe' means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(3) by redesignating paragraphs (6), (7), (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (13), (5), (6), (4), and (10), respectively; and

(4)(A) by transferring paragraph (4), as so redesignated, and inserting the paragraph after paragraph (3);

(B) by transferring paragraphs (5) and (6), as so redesignated, and inserting the paragraphs after paragraph (4), as so redesignated;

(C) by transferring paragraph (10), as so redesignated, and inserting the paragraph after paragraph (9), as so redesignated;

(D) by inserting after paragraph (10), as so redesignated, the following:

"(11) The term 'local educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.

"(12) The term 'migrant Head Start program' means a Head Start program that serves families who are engaged in agricultural work and who have changed their residence from one geographical location to another in the preceding 2-year period."; and

(E) by adding at the end the following:

"(14) The term 'State educational agency' has the meaning given such term in the Elementary and Secondary Education Act of 1965.".

SEC. 103. SERVICES.

Section 638(a)(1) (42 U.S.C. 9833(a)(1)) is amended by striking "health, nutritional, educational, social, and other services" and inserting "health, education, parental involvement, nutritional, social, and other services".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 639 (42 U.S.C. 9834) is amended—

(1) in subsection (a), by striking all that follows "subchapter" and inserting "such sums as may be necessary for fiscal years 1995, 1996, 1997, and 1998."; and

(2) by striking subsections (b) and (c) and inserting the following:

"(b) From the amount appropriated under subsection (a), the Secretary shall make available—

"(1) $35,000,000 for each of the fiscal years 1995 through 1998 to—

"(A) carry out the Head Start Transition Project Act; and

"(B) carry out activities authorized under section 642(d); and

"(2) not more than $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998, to carry out longitudinal research under section 649(e).".

SEC. 105. ALLOCATION OF FUNDS.

(a) ALLOCATION AND USE OF FUNDS FOR QUALITY IMPROVEMENT.—Section 640(a)(3) (42 U.S.C. 9835(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively;

(2) by striking "(3)(C)" and all that follows through "quality improvement activities:" and inserting the following:

"(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

"(I) 25 percent of such excess amount; and

"(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

"(ii) As used in clause (i), the term 'adjusted prior year appropriation' means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

"(B) Funds reserved under this paragraph (referred to in this paragraph as 'quality improvement funds') shall be used to accomplish any or all of the following goals:

"(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

"(ii) Ensuring that such programs have adequate qualified staff, and that such staff are furnished adequate training, including developing skills in working with children with non-English language background, when appropriate.

"(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

"(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs.

"(v) Improving community-wide strategic planning and needs assessments for such programs.

"(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, including, where appropriate, services to families with very young children.

"(vii) Making such other improvements in the quality of such programs as the Secretary may designate.

"(C) Quality improvement funds shall be used to carry out any or all of the following activities:";

(3) in subparagraph (C), as redesignated in paragraph (1), by adding at the end the following:

"(vii) Such other activities as the Secretary may designate."; and

(4) in subparagraph (D), as redesignated in paragraph (1)—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "for the first, second, and third fiscal years for which funds are so reserved"; and

(ii) in subclause (II), by inserting "geographical areas specified in subsection (a)(2)(B) and Indian and migrant Head Start programs," after "States,";

(B) by striking clauses (ii) and (iii);

(C) in clause (iv)—

(i) by striking "To be expended" and all that follows through "reserved, funds" and inserting "Funds";

(ii) by striking "clause (ii)" the first place it appears and inserting "clause (i)";

(iii) by inserting before the period at the end of the first sentence, ", for expenditure for activities specified in subparagraph (C)"; and

(iv) by striking the second sentence;

(D) in clause (vi), by striking "paragraphs (2), (4), and (5)" and inserting "paragraph (2) or (4)"; and

(E) by striking clause (v) and redesignating clauses (iv) and (vi) as clause (ii) and (iii), respectively.

(b) FUNDS SET-ASIDE.—Section 640(a) (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1), by striking "through (5)." and inserting "through (4), and subject to paragraphs (5) and (6).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1990" and inserting "1994"; and

(B) in subparagraph (D), by inserting "(including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities related to the development and implementation of quality improvement plans under section 641A(d)(2))" after "Secretary";

(3) in paragraph (3), by striking "paragraph (5)" each place it appears and inserting "paragraph (4)";

(4) by striking paragraph (4), and redesignating paragraphs (5) and (6) as paragraphs (4) and (7), respectively;

(5) in paragraph (4), as redesignated in paragraph (4), by striking "The" and inserting "Subject to section 639(b), the"; and

(6) by adding after paragraph (4), as redesignated in paragraph (4), the following:

"(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraph (B).

"(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration between State governments and Head Start programs regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are designed to benefit low-income children and families.

"(C) A State that receives a grant under subparagraph (B) shall—

"(i) appoint an individual to serve as a State liaison between—

"(I) agencies and individuals carrying out Head Start programs in the State;

"(II) the State educational agency and local educational agencies; and

"(III) other agencies and entities carrying out programs serving low-income children and families;

"(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

"(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies; and

"(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, libraries, and national service activities, and activities relating to children with disabilities.

"(D) As used in this paragraph, the term 'low-income', used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

"(6) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 3 percent for fiscal year 1995, 4 percent for each of fiscal years 1996 and 1997, and 5 percent for fiscal year 1998, of the amount appropriated pursuant to section 639(a).".

(c) CONSIDERATIONS FOR ALLOCATION OF FUNDS FOR PROGRAM EXPANSION.—Section 640(g) (42 U.S.C. 9835(g)) is amended—

(1) by striking "(g)" and inserting "(g)(1)"; and

(2) by adding at the end the following:

"(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

"(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter;

(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

"(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations serving children and families (including organizations serving families in whose homes English is not the language customarily spoken) and involving consultation with the State agency that administers early childhood development and education programs;

"(D) the extent to which the applicant has identified a need to provide full-working-day or full calendar year services based on a family and community needs assessment consistent with the preceding paragraph;

"(E) the numbers of eligible children in each community who are not participating in a Head Start program; and

"(F) the concentration of low-income families in each community.

"(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).".

(d) TECHNICAL AMENDMENT.—Section 640(h) (42 U.S.C. 9835(h)) is amended by striking "Each Head Start program may" and inserting "Financial assistance provided under this subchapter may be used by each Head Start program to".

(e) COMPENSATION; REGULATIONS; PRIORITY.—Section 640 (42 U.S.C. 9835) is amended by adding at the end the following:

"(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this subchapter shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

"(k) Regulations issued by the Secretary that require a certain number of hours of service to be provided to children in Head Start programs shall include such flexibility as will permit Head Start agencies to satisfy such requirement through one or more of a variety of techniques, including adjustments to the length of a daily session or to the number of days of service.

"(l) With funds made available under section 640(a)(2) to migrant Head Start programs, the Secretary shall give priority to migrant Head Start programs that serve eligible children of migrant families whose work requires them to relocate most frequently.".

SEC. 106. REPORT.

Section 640A (42 U.S.C. 9835a) is repealed.

SEC. 107. DESIGNATION.

(a) INDIAN RESERVATIONS.—Section 641(b) (42 U.S.C. 9836(b)) is amended by inserting after "Indian reservation" the following: "(including Indians in any area designated by the Bureau of Indian Affairs as near-reservation)".

(b) DESIGNATION OF AGENCIES.—Section 641(c) (42 U.S.C. 9836(c)) is amended—

(1) by striking paragraphs (2) through (4);

(2) in the first sentence—

(A) by inserting "(subject to paragraph (2))" before ", the Secretary shall give priority"; and

(B) by striking "unless" and all that follows through the end of subparagraph (A) and inserting the following: "unless the Secretary makes a finding that the agency involved fails to meet program, financial management, and other requirements established by the Secretary.";

(3) by redesignating subparagraph (B) as paragraph (2);

(4) in paragraph (2), as so redesignated—

(A) by striking "except that, if" and inserting "If"; and

(B) by striking "subparagraph (A)" and inserting "paragraph (1)";

(5) by striking "Notwithstanding any other provision of this paragraph" and inserting the following:

"(3) Notwithstanding any other provision of this subsection"; and

(6) by aligning the margins of paragraph (2), as so redesignated, with the margins of paragraph (3).

(c) CONSIDERATIONS IN DESIGNATING NEW HEAD START AGENCIES.—Section 641(d) (42 U.S.C. 9836(d)) is amended—

(1) in the first sentence, by striking all that precedes "then the Secretary" and inserting "If no entity in a community is entitled to the priority specified in subsection (c),";

(2) by striking the second sentence;

(3) in the third sentence—

(A) in the matter preceding paragraph (1), by striking "and subject to the preceding sentence";

(B) in paragraph (3), by inserting ", including Even Start programs," after "preschool programs"; and

(C) in paragraph (4), to read as follows: "(4) the plan of such applicant—

"(A) to seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children;

"(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"C) to offer (directly or through referral to local entities, such as public and school libraries and entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)) to such parents—

"(i) family literacy services; and

"(ii) parenting skills training;

"(D) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

"(i) parental social self-sufficiency training;

"(ii) substance abuse counseling;

"(iii) training in nonpunitive discipline techniques that are age appropriate, consistent, and positive for the child;

"(iv) training in basic child development;

"(v) assistance in developing communication skills;

"(vi) opportunities for parents to share experiences with other parents, or

"(vii) any other activity designed to help such parents understand the importance of their involvement in the education of their children and to help such parents become full partners in the education of their children; and

"(E) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) and (D) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);";

(4) in paragraph (7)—

(A) by striking "non-English language children" and inserting "non-English language background children and their families"; and

(B) by inserting "and" after the semicolon;

(5) by striking paragraph (8); and

(6) by redesignating paragraph (9) as paragraph (8).

(d) CONFORMING AMENDMENT.—Section 641 (42 U.S.C. 9836) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

SEC. 108. MONITORING AND QUALITY ASSURANCE.

The Act is amended by inserting after section 641 (42 U.S.C. 9836) the following:

"SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

"(a) QUALITY STANDARDS.—

"(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards applicable to Head Start agencies, program, and projects under this subchapter, including—

"(A) performance standards with respect to services required to be provided, including health, education, parental involvement, nutritional, social, transition-to-elementary-school, and other services;

"(B) administrative and financial management standards, including standards that address recordkeeping and file maintenance practices;

"(C) standards relating to the condition and location of facilities for such agencies, programs, and projects;

"(D) standards for the provision of services to families with very young children; and

"(E) such other standards as the Secretary finds to be appropriate.

"(2) MINIMUM REQUIREMENTS.—The regulations promulgated under this subsection shall establish the minimum levels of overall accomplishment that a Head Start agency shall achieve in order to meet the standards specified in paragraph (1).

"(3) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

"(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically, culturally, and developmentally appropriate services to non-English language background children and their families), administration and financial management, and with persons with experience in the operation of Head Start programs;

"(B) take into consideration—

"(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

"(ii) changes over the period since the date of enactment of this subchapter in the circumstances and problems typically facing children and families served by Head Start agencies;

"(iii) developments concerning best practices with respect to child development, children with disabilities, family services, program administration, and financial management;

"(iv) guidelines and standards currently in effect or under consideration that promote child health services, and projected needs of expanding Head Start programs;

"(v) changes in the population of children who are eligible to participate in Head Start programs, including the language background and family structure of such children; and

"(vi) the need for, and state-of-the art developments relating to, local policies and activities designed to ensure that children participating in Head Start programs make a successful transition to public schools; and

"(C)(i) not later than 1 year after the date of enactment of this section, review and revise as necessary the performance standards in effect under section 651(b) on the day before the date of enactment of this section; and

"(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on November 2, 1978.

"(4) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to an agency (referred to in this subchapter as the 'delegate agency') to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

"(b) PERFORMANCE MEASURES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of child development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies (referred to in this subchapter as 'performance measures').

"(2) DESIGN OF MEASURES.—The performance measures developed under this subsection shall be designed—

"(A) to assess the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

"(B) to be adaptable for use in self-assessment and peer review of individual Head Start agencies and programs; and

"(C) for other program purposes as determined by the Secretary.

"(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

"(A) to identify strengths and weaknesses in the operation of Head Start programs nationally and by region; and

"(B) to identify problem areas that may require additional training and technical assistance resources.

"(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

"(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

"(A) A full review of each such agency at least once during each 3-year period.

"(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

"(D) Other reviews as appropriate.

"(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

"(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs and the diverse (including linguistic and cultural) needs of eligible children and their families; and

"(B) are supervised by such an employee at the site of such Head Start agency.

"(d) CORRECTIVE ACTION; TERMINATION.—

"(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (b), the Secretary shall—

"(A) inform the agency of the deficiencies that shall be corrected;

"(B) with respect to each identified deficiency, require the agency—

"(i) to correct the deficiency immediately; or

"(ii) at the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

"(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

"(2) QUALITY IMPROVEMENT PLAN.—

"(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency able to correct a deficiency immediately) shall—

"(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

"(I) the deficiencies to be corrected;

"(II) the actions to be taken to correct such deficiencies; and

"(III) the timetable for accomplishment of the corective actions specified; and

"(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

"(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

"(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

"(e) SUMMARIES OF MONITORING OUTCOMES.—Not later than 90 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year.".

SEC. 109. ENHANCED PARENT INVOLVEMENT AND TRANSITION COORDINATION WITH SCHOOLS.

Section 642 (42 U.S.C. 9837) is amended—

(1) by amending subsection (b) to read as follows:

"(b) In order to be so designated, a Head Start agency shall also—

"(1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests;

"(2) provide for their regular participation in the implementation of such programs;

"(3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources;

"(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

"(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training;

"(6) at the option of such agency, offer (directly or through referral to local entities), to such parents, parental social self-sufficiency training, substance abuse counseling, training in nonpunitive discipline techniques that are age appropriate, consistent, and positive for the child, training in basic child development, assistance in developing communication skills, opportunities for parents to share experiences with other parents, regular in-home visitation for families at risk of child abuse and neglect, or any other activity designed to help such parents become full partners in the education of their children;

"(7) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (6) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

"(8) establish procedures to seek reimbursement, to the extent feasible, from other agencies for services for which any such other agency is responsible, which are provided to a Head Start participate by the Head Start agency;

"(9) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources; and

"(10) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in it Head Start program as volunteers.";

(2) in subsection (c)—

(A) by striking "schools that will subsequently serve children in Head Start programs,"; and

(B) by inserting ", including Even Start programs." after "other programs"; and

(3) by adding after subsection (c) the following:

"(d)(1) Each Head Start agency shall carry out the actions specified in this subsection, to the extent feasible and appropriate in the circumstances (including the extent to which such agency is able to secure the cooperation of parents and schools) to enable children to maintain the developmental gains achieved in Head Start programs and to build upon such gains in further schooling.

"(2) the Head Start agency shall take steps to coordinate with the local educational agency (as defined in the elementary and Secondary Education Act of 1965) serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

"(A) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

"(B) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

"(C) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the developmental and other needs of individual children;

"(D) organizing and participating in joint transition-related training of school staff, Head Start staff, and parents;

"(E) providing transportation and using facilities; and

"(F) on the request of the local educational agency, providing noneducational services to such children.

"(3) In order to promote the continued involvement of parents of children who participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

"(A) provide training to such parents—

"(i) to inform such parents about their rights and responsibilities concerning the education of their children; and

"(ii) to enable such parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

"(B) take other actions, as appropriate and feasible, to support the active involvement of such parents with schools, school personnel, and school-related organizations.

"(4) The Secretary, in cooperation with the Secretary of Education, shall—

"(A) evaluate the effectiveness of the projects and activities funded under the Head Start Transition Project Act (42 U.S.C. 9855 et seq.);

"(B) disseminate to Head Start agencies information (including information from the evaluation required by subparagraph (A)) on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

"(C) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.".

SEC. 110. FACILITIES AND ADMINISTRATIVE REQUIREMENTS.

Section 644 (42 U.S.C. 9839) is amended—

(1) in subsection (d), by striking "guidelines, instruction,";

(2) in subsection (f)—

(A) in paragraph (2), by striking "640(a)(3)(A)(v)" and inserting "640(a)(3)(C)(v)"; and

(B) by adding at the end the following:

"(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility."; and

(3) by adding at the end the following:

"(g) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a preference eligible, as described in section 2108(3)(C) of title 5 of the United States Code. the Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.".

SEC. 111. PARTICIPATION.

Section 645 (42 U.S.C. 9840) is amended by adding at the end the following:

"(d)(1) An Indian tribe that—

"(A) operates a Head Start program;

"(B) enrolls as participants in the program all children in the community served by the tribe (including a community with a near-reservation designation, as defined by the Bureau of Indian Affairs) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

"(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

"(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

"(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.".

SEC. 112. INITIATIVE ON FAMILIES WITH INFANTS AND TODDLERS

(a) ESTABLISHMENT.—The Act is amended by adding after section 645 (42 U.S.C. 9840) the following:

"SEC. 645A. PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

"(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section for—

"(1) programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency; and

"(2) provision of training and technical assistance to entities carrying out programs, and evaluation of programs, that were supported under the Comprehensive Child Development Act (42 U.S.C. 9881 et seq.), as in effect on the day before the date of enactment of this section.

"(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

"(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

"(2) ensure that the level of services provided to families responds to their needs and circumstances;

"(3) promote positive parent-child interactions;

"(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

"(5) coordinate services with services provided by programs in the State and programs in the community (including transition-to-school programs and linkages with programs of other agencies, including local educational agencies serving families with infants and toddlers) to ensure a comprehensive array of services (such as health and mental health services);

"(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

"(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age; and

"(8) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

"(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a)(1) include—

"(1) pregnant women; and

"(2) families with children under age 3 (or under age 5, in the case of children served by an entity specified in subsection (e)(3));

who meet the income criteria specified for families in section 645(a)(1).

"(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

"(1) entities operating Head Start programs under this subchapter;

"(2) entities that, on the day before the date of enactment of this section, were operating—

"(A) Parent-Child Centers receiving financial assistance under section 640(a)(4), as in effect on such date; or

"(B) programs receiving financial assistance under the Comprehensive Child Development Act, as in effect on such date; and

"(3) other public entities, and nonprofit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

"(e) TIME-LIMITED PRIORITY FOR CERTAIN ENTITIES.—

"(1) IN GENERAL.—From amounts allotted pursuant to paragraphs (2) and (4) of section 640(a), the Secretary shall provide financial assistance in accordance with paragraphs (2) through (4).

"(2) PARENT-CHILD CENTERS.—The Secretary shall make financial assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that—

"(A) complies with subsection (b); and

"(B) received funding as a Parent-Child Center pursuant to section 640(a)(4), as in effect on the day before the date of enactment of this section, for fiscal year 1994.

"(3) COMPREHENSIVE CHILD DEVELOPMENT CENTERS.—

"(A) In the case of an entity that received a grant for fiscal year 1994 to operate a project under the Comprehensive Child Development Act, the Secretary—

"(i) shall make financial assistance available under this section, in a comparable amount and scope to the assistance provided for fiscal year 1994, for the duration of the project period specified in the grant award to such entity under such Act; and

"(ii) shall permit such entity, in carrying out activities assisted under this section, to serve children from birth through age 5.

"(B) In the case of an entity that received a grant for fiscal year 1989 to operate a project under the Comprehensive Child Development Act, the Secretary shall make assistance available under this section for each of fiscal years 1995, 1996, and 1997 to any entity that complies with subsection (b).

"(4) EVALUATIONS, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall make financial assistance available under this section as necessary to provide for the evaluation of, and furnishing of training and tech-

nical assistance to, programs specified in paragraph (3)(A).

"(f) SELECTION OF OTHER GRANT RECIPIENTS.—From the balance remaining of the portion specified in section 640(a)(6), after making grants to the eligible entities specified in subsection (e), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

"(g) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

"(1) ensure an equitable national geographic distribution of the grants; and

"(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

"(h) SECRETARIAL RESPONSIBILITIES.—

"(1) GUIDELINES.—Not later than September 30, 1994, the Secretary shall develop program guidelines concerning the content and operation of programs assisted under this section—

"(A) in consultation with experts in early childhood development, experts in health, and experts in family services; and

"(B) taking into consideration the knowledge and experience gained from other early childhood programs, including programs under the Comprehensive Child Development Act, and from migrant Head Start programs that serve a large number of infants and toddlers.

"(2) STANDARDS.—Not later than December 30, 1994, the Secretary shall develop and publish performance standards for programs assisted under this section, and a grant announcement based on the guidelines developed under paragraph (1).

"(3) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the balance described in subsection (f) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.".

(b) CONSOLIDATION.—(1) in recognition that the Comprehensive Child Development Centers Act has demonstrated positive results, and that its purposes and functions have been consolidated into section 645A of the Head Start Act, the Comprehensive Child Development Centers Act of 1988 (42 U.S.C. 9801 note) and the Comprehensive Child Development Act (42 U.S.C. 9881-9887) are repealed by paragraph (2).

(2)(A) Part E of title II of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Amendments of 1988 (Public Law 100-297; 102 Stat. 325) is repealed.

(B) Subchapter F of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 9801 note, et seq.) is repealed.

(c) CONFORMING AMENDMENT.—Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) in subsection (a) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 113. APPEALS, NOTICE, AND HEARING.

(a) MEDIATION AND HEARING FOR DISPUTES WITH DELEGATE AGENCIES.—Section 646(a) (42 U.S.C. 9841(a)) is amended—

(1) at the end of paragraph (2), by striking "and";

(2) at the end of paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

"(A) resolve in a timely manner conflicts potentially leading to adverse action between—

"(i) recipients of financial assistance under this subchapter; and

"(ii) delegate agencies or Head Start Parent Policy Councils; and

"(B) avoid the need for an administrative hearing.".

(b) TERMINATION OF DESIGNATION NOT STAYED PENDING APPEAL.—Section 646 (42 U.S.C. 9841) is amended by striking subsection (b) and inserting the following:

"(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

"(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict;

"(2) a reasonable period for the mediation;

"(3) a timeline for an administrative hearing, if necessary, to resolve the conflict; and

"(4) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

"(c) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

"(d)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

"(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

"(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

"(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

"(A) served on the administrative staff or program staff of the agency descried in paragraph (1)(A); and

"(B) was responsible for a deficiency that—

"(i) relates to the performance standards or financial management standards described in section 641A9a)(1); and

"(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).".

SEC. 114. GOALS AND PRIORITIES FOR TRAINING AND TECHNICAL ASSISTANCE.

Section 648 (42 U.S.C. 9843) is amended—

(1) in the section heading to read as follows: "TECHNICAL ASSISTANCE AND TRAINING";

(2) in subsection (a)(2), by striking "Head Start programs, including" and inserting "Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c). The Secretary shall provide, either directly or through grants or other arrangements,";

(3)(A) by redesignating the final sentence of subsection (a), as amended by paragraph (2), as subsection (e);

(B) by transferring such subsection to the end of the section; and

(C) by indenting such subsection and aligning the margins of such subsection with the margins of subsection (d);

(4) by striking subsections (b) and (c);

(5) by inserting after subsection (a) the following:

"(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible; and

"(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs.

"(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(1) give priority consideration to activities to correct program and management deficiencies identified through reviews pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2));

"(2) address the training and career development needs of classroom staff (including instruction for providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

"(3) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

"(4) assist Head Start agencies and programs in developing full-working-day and full-calendar-year programs and making the transition to such programs, with particular attention to involving parents and programming for children throughout a longer day;

"(5) assist Head Start agencies in better serving the needs of families with very young children;

"(6) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures; and

"(7) assist in efforts to secure and maintain adequate facilities for Head Start programs."; and

(6) in subsection (d), by adding at the end the following:

"Special consideration shall be given to entities that have demonstrated effectiveness in educational programming for preschool children that includes components for parental involvement, care provider training, and developmentally appropriate related activities.".

SEC. 115. STAFF QUALIFICATIONS AND DEVELOPMENT.

The Head Start Act is amended by inserting after section 648 (42 U.S.C. 9843) the following:

"SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

"(a) CLASSROOM TEACHERS.—

"(1) DEGREE REQUIREMENTS.—The Secretary shall ensure that not later than September 30, 1996, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of

the children being served in center-based programs;

"(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, a baccalaureate, or an advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

"(2) WAIVER.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1996, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants any credential, certificate, or degree specified in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

"(3) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

"(b) MENTOR TEACHERS.—

"(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term 'mentor teacher' means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

"(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

"(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

"(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff, that are experiencing difficulty in meeting applicable education standards, or that lack staff able to communicate in the languages of participating children and their families;

"(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs; and

"(D) promote the development of model curricula, designed to ensure the attainment of appropriate competencies by individuals working, or planning to work, in the field of early childhood development and family services.

"(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

"(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

"(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate cometencies by individuals working or planning to work in the field of early childhood and family services; and

"(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

"(d) HEAD START FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as 'Head Start Fellowship', in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as 'Head Start Fellows', who are staff in local Head Start programs or other individuals working in the field of child development and family services.

"(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

"(3) ASSIGNMENTS OF FELLOWS.—

"(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

"(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

"(ii) in local Head Start agencies and programs;

"(iii) in institutions of higher education;

"(iv) in public or private entities and organizations concerned with services to children and families; and

"(v) in other appropriate settings.

"(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

"(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

"(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

"(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

"(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

"(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

"(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services (including services to non-English language background children and their families), shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.".

SEC. 116. RESEARCH, DEMONSTRATIONS, EVALUATION.

Section 649 (42 U.S.C. 9844) is amended to read as follows:

"SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

"(a) IN GENERAL.—

"(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

"(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

"(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities, and otherwise to further the purposes of this subchapter.

"(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

"(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

"(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

"(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

"(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

"(4) may require Head Start agencies to provide for independent evaluations;

"(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

"(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

"(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

"(1) consult with—

"(A) individuals from relevant academic disciplines;

"(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

"(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

"(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

"(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

"(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

"(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

"(2) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

"(3) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

"(4) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

"(5) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

"(6) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities; and

"(7) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter.

"(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

"(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

"(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

"(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

"(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.".

SEC. 117. ANNOUNCEMENTS AND EVALUATIONS.

Section 650 (42 U.S.C. 9845) is repealed.

SEC. 118. REPORTS.

(a) IN GENERAL.—Section 651 (42 U.S.C. 9846) is amended—

(1) by striking the section heading and all that follows through subsection (f) and inserting:

"SEC. 651. REPORTS.";

(2) by striking "(g)";

(3) in paragraph (10), by striking "evaluations conducted under section 641(c)(2)" and inserting "monitoring conducted under section 641A(c)"; and

(4)(A) by striking "and" at the end of paragraph (11);

(B) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(C) by adding after paragraph (12) the following:

"(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

"(A) a status report on ongoing activities; and

"(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities; and

"(14) a study of the availability and delivery of Head Start programs to Indian children living on and near Indian reservations and to children of migrant and seasonal farmworkers, including estimates of the percentages of such children being served by Head Start programs.".

(b) REDESIGNATION.—Section 651 is redesignated as section 650.

SEC. 119. REPEALS.

Sections 651A and 652 (42 U.S.C. 9846a and 9847) are repealed.

SEC. 120. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

The Act is amended by adding at the end the following:

"SEC. 657A. CONSULTATION WITH THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"The Secretary shall consult with the Chief Executive Officer of the Corporation for National and Community Service regarding the dissemination of information about the Corporation's programs, to programs that receive funds under this subchapter.".

SEC. 121. STUDY OF BENEFITS FOR HEAD START EMPLOYEES.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study regarding the benefits available to individuals employed by Head Start agencies under the Head Start Act (42 U.S.C. 9831 et seq.).

(b) REPORT.—

(1) PREPARATION.—The Secretary shall prepare a report, containing the results of the study, that—

(A) describes the benefits, including health care benefits, family and medical leave, and retirement pension benefits, available to such individuals; and

(B) includes recommendations for increasing the access of the individuals to benefits, including access to a retirement pension program.

(2) SUBMISSION.—The Secretary shall submit the report to the appropriate committees of Congress.

SEC. 122. STUDY OF FULL-DAY AND FULL-YEAR HEAD START PROGRAMS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the extent to which Head Start programs are addressing the need for child care services during a full working day or full calendar year among eligible low-income families with preschool children.

(b) REPORT.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1996, containing the results of the study that—

(1) describes the number of full-day, full-year Head Start programs and the number of children served in such program or provided full-day or full-year services through arrangements with other service providers;

(2) compares the number of children in full-day or full-year Head Start programs with the need for full-day or full-year care among such families;

(3) identifies the barriers to meeting the need for full-day, full-year care among such families;

(4) describes promising models currently employed by Head Start programs for meeting such needs both directly and through arrangements with other service providers; and

(5) makes recommendations on how the child care needs of families with children enrolled in Head Start programs may be addressed.

SEC. 123. STATE DEPENDENT CARE DEVELOPMENT PROGRAMS.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking "are authorized to be appropriated" and all that follows and inserting "is authorized to be appropriated $13,000,000 for fiscal year 1995.".

SEC. 124. REAUTHORIZATION OF CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10905) is amended by striking "$1,500,000" and all that follows and inserting "to carry out this title such sums as may be necessary for fiscal year 1995.".

SEC. 125. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEAD START TRANSITION PROJECT ACT.—Section 133(a) of the Head Start Transition Project Act is amended by striking "639(c)" and inserting "639(b)".

(b) SOCIAL SECURITY ACT.—Section 1924(d)(3)(A)(i) of the Social Security Act (42 U.S.C. 1396r-5(d)(3)(A)(i)) is amended by striking "sections 652 and 673(2)" and inserting "section 673(2)".

SEC. 126. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title, and the amendments made by this title, shall take effect on the date of enactment of this title.

(b) APPLICATION.—The requirements of this title and the amendments made by this title shall not apply to Head Start agencies and other recipients of financial assistance under

the Head Start Act with respect to fiscal years ending before October 1, 1994.

TITLE II—COMMUNITY SERVICES BLOCK GRANT AMENDMENTS

SEC. 201. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Community Services Block Grant Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

SEC. 202. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATION.—Subsection (b) of section 672 (42 U.S.C. 9901(b)) is amended to read as follows:

"(b) There are authorized to be appropriated $525,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this subtitle.".

(b) STATE ALLOCATIONS.—Section 674 (42 U.S.C. 9903) is amended—

(1) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated), the following:

"(a)(1) Of the amounts appropriated for a fiscal year pursuant to section 672(b), the Secretary may reserve not less than one-half of 1 percent and not more than 1 percent for training, technical assistance, planning, and evaluation activities related to programs or projects carried out under this subtitle. Such activities may be carried out by the Secretary directly or through grants, contracts, or cooperative agreements.

"(2) The process for determining the technical assistance and training activities to be carried out under this section shall—

"(A) ensure the needs of eligible entities relating to the improving program quality are addressed to the maximum extent feasible; and

"(B) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the community action State and national network as well as community development corporation national and State organizations.

"(3) In allocating resources for technical assistance and training under this section, the Secretary shall—

"(A) assist eligible entities in the development of sound management practices, including financial management practices; and

"(B) consistent with the availability of funds, respond to the training requests and concerns of community development corporations, community action agencies and programs.".

(c) APPLICATIONS AND REQUIREMENTS.—

(1) FORM AND ASSURANCES.—Section 675(a) (42 U.S.C. 9904(a)) is amended by inserting "or significant amendments thereof" before "shall contain assurances".

(2) USE OF FUNDS.—Section 675(c)(1) (42 U.S.C. 9904(c)(1)) is amended by striking "use the funds available under this subtitle" and inserting "ensure that, at its discretion and consistent with agreements with the State, each recipient of funds available under this subtitle will use such funds".

(3) ASSURED ACTIVITIES.—Section 675(c)(1)(B) (42 U.S.C. 9904(c)(1)(B)) is amended by inserting "homeless individuals and families, migrants, and" before "the elderly poor".

(4) STATE RESPONSIBILITIES.—Section 675(c)(2)(B) (42 U.S.C. 9904(c)(2)(B)) is amended to read as follows:

"(B) if less than 100 percent of the allotment is expended under subparagraph (A), provide assurances that with respect to the remainder of the allotment a reasonable amount shall be used for—

"(i) providing training and technical assistance to those entities in need of such assistance and such activities will not be considered administrative expenses;

"(ii) coordinating State-operated programs and services targeted to low-income children and families with services provided by eligible entities funded under this subtitle, including outposting where appropriate State or local public employees into entities funded under this subtitle to ensure increased access to services provided by such State or local agencies;

"(iii) supporting statewide coordination and communication among eligible entities;

"(iv) administrative expenses at the State level, including monitoring activities, but not more than the greater of $55,000 or 5 percent of allotment under section 674; and

"(v) considering the distribution of funds under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need.".

(5) TRIPARTITE BOARD.—Section 675(c)(3) (42 U.S.C. 9904(c)(3)) is amended—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii) and (iii), respectively;

(B) by striking the comma after "provide assurances that" and inserting "(A)"; and

(C) by adding at the end the following: "and

"(B) in the case of public organization receiving funds under this subtitle, such organization either establish—

"(i) a board of which at least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served; or

"(ii) another mechanism specified by the State to assure low-income citizen participation in the planning, administration, and evaluation of projects for which such organization has been funded;".

(d) COMMUNITY ACTION AGENCY PLAN.—Section 675(c) (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (11)—

(A) by redesignating clauses (i) through (iii) of subparagraph (A) as items (i) through (iii), respectively;

(B) by realigning the margin of the sentence beginning with "For purposes of" so as to align with paragraph (A) of paragraph (1);

(C) by striking "For purposes of" and inserting "(A) For purposes of";

(D) by striking "(A) a statewide" and inserting "(i) a statewide";

(E) by striking "(B) the failure" and inserting "(ii) the failure";

(F) by inserting immediately before paragraph (12) the following:

"(B) for purposes of making a determination with respect to a termination, the term 'cause' includes the material failure of an eligible entity to comply with the terms of its agreement and community action plan to provide services under this subtitle;".

(2) in paragraph (12) by striking the period and inserting a semicolon; and

(3) by inserting after paragraph (12) the following:

"(13) secure from each eligible entity as a condition to its receipt of funding under this subtitle a community action plan (which shall be available to the Secretary for inspection) that includes—

"(A) a community needs assessment (including food needs);

"(B) a description of the service delivery system targeted to low-income individuals and families in the service area;

"(C) a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and followup consultations;

"(D) a description of how funding under this Act will be coordinated with other public and private resources; and

"(E) a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization; and

"(14) provide assurances that cost and accounting standards of the Office of Management and Budget shall apply to a recipient of funds under this subtitle.".

(e) PUBLIC INSPECTIONS OF PLANS.—Section 675(d)(2) (42 U.S.C. 9904(d)(2)) is amended by inserting "or revision" after "Each plan".

(f) AUDITS.—The last sentence of section 675(f) (45 U.S.C. 9904(f)) is amended by inserting before "to the legislature" the following: "to the eligible entity at no charge,".

(g) EVALUATION INVOLVING WAIVERS.—Section 675(h) (42 U.S.C. 9904(h)) is amended by inserting "(including any State that received a waiver under Public Law 98-139)" after "States" the last place it appears.

SEC. 203. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) TRAINING AND ACTIVITIES.—Section 681(a) (42 U.S.C. 9910(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "to provide for—" and all that follows through "(2)" and inserting "to provide for"; and

(2) by striking "special emphasis programs for—" and all that follows through paragraph (3), and inserting the following:

"a Community Initiative Program, awarded on a competitive basis, to fund private, nonprofit community development corporations for purposes of planning and carrying out community and economic development activities in economically distressed areas and in rural areas, as described in subsection (c).".

(b) COMMUNITY INITIATIVE PROGRAM.—Subsection (b) of section 681 (42 U.S.C. 9910) is amended to read as follows:

"(b) COMMUNITY INITIATIVE PROGRAM.—

"(1) IN GENERAL.—

"(A) ECONOMIC DEVELOPMENT ACTIVITIES.—Economic development activities under this section shall be designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

"(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) in consultation with other relevant Federal officials.

"(C) GOVERNING BOARDS.—Each community development corporation receiving funds under this section shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing or managing community development projects.

"(D) GEOGRAPHIC DISTRIBUTION.—In providing assistance or entering into other arrangements under this section, the Secretary shall take into consideration the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas.

"(2) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—Rural community development activities under this section shall include—

"(A) grants to private, nonprofit corporations that provide assistance to rural low-income families in home repair and in planning and developing low-income rural rental housing units;

"(B) grants to multistate, regional private, nonprofit organizations that provide training and technical assistance to small, rural communities in meeting their community facility needs; and

"(C) grants to nonprofit private organizations that provide assistance for migrants and seasonal farmworkers.".

SEC. 204. COMMUNITY FOOD AND NUTRITION.

Subsection (d) of section 681A (42 U.S.C. 9910a(d)) is amended to read as follows:

"(d) There are authorized to be appropriated $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998, to carry out this section.".

SEC. 205. INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

The Act (42 U.S.C. 9901 et seq.) is amended—

(1) by redesignating sections 682 and 683 as sections 683 and 684, respectively; and

(2) by inserting after section 681 the following:

"SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

"(a) GENERAL AUTHORITY.—The Secretary of Health and Human Services is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give a priority to eligible service providers that have a demonstrated ability to operate such a program.

"(b) PROGRAM REQUIREMENTS.—

"(1) Any instructional activity carried out by an eligible service provider receiving a grant under this subsection shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act) and shall include—

"(A) access to the facilities and resources of such an institution;

"(B) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(C) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(D) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(E) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drugs and alcohol abuse, health and nutrition, career opportunities and family and job responsibilities.

"(c) ELIGIBLE PROVIDERS.—A national private non-profit organization, a coalition of such organizations, or a private nonprofit organization applying jointly with a business concern shall be eligible for a grant under this subsection if—

"(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

"(2) the applicant shall contribute amounts in cash or fairly evaluated in kind of no less than 25 percent of the amount requested;

"(3) the applicant shall use no funds from a grant authorized under this section for administrative expenses; and

"(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary of Health and Human Services for use of funds made available by this grant.

"(d) APPLICATIONS PROCESS.—Eligible service providers may submit to the Secretary of Health and Human Services, for approval, an application in such form at such time as the Secretary deems appropriate.

"(e) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary of Health and Human Services shall promulgate regulations or program guidelines to ensure funds made available under a grant made under this section are used in accordance with the intentions of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for each fiscal year 1995, 1996, 1997, and 1998 for grants to carry out this section.".

SEC. 206. AMENDMENT TO STEWART B. McKINNEY HOMELESS ASSISTANCE ACT.

The last section of subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11646) is amended—

(1) by striking "SEC. 751." and by inserting "SEC. 754.", and

(2) by striking "1991" and all that follows through "1993", and inserting "1995, 1996, 1997, and 1998".

SEC. 207. AMENDMENTS TO THE HUMAN SERVICES REAUTHORIZATION ACT OF 1986.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9901b) is amended—

(1) in subsection (a) by adding at the end of the following:

"(3) Initial and subsequent grant awards may fully fund projects for periods of up to 3 years.";

(2) in subsection (b)(1)(B) by striking "After the first fiscal year" and inserting "After the first funding period";

(3) by amending subsection (c)—

(A) by amending paragraph (1) to read as follows:

"(1) In addition to the grant programs described in subsection (a), the Secretary may make grants to community action agencies for the purpose of enabling such agencies to demonstrate new approaches to dealing with the problems associated with urban gangs or similar antisocial activities of urban youth. Demonstrations shall include such activities as peer counseling, mentoring, development of job skills, assistance with social skills, antigang education, family literacy, parenting skills, and other services designed to assist at-risk youth to continue their education, to secure meaningful employment, or to pursue other productive alternatives to joining gangs or engaging in any other form of anti-social activity."; and

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

"(4) Such grants made under this subsection on a competitive basis shall be based on an annual competition determined by the Secretary. Grants made under this subsection shall not exceed $500,000."; and

(4) by amending subsection (h) to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this section.

"(2) Of the amounts appropriated for this section not less than 30 percent shall be used to carry out the programs authorized under subsection (c).

"(3) In addition to sums which are required to carry out the evaluation, reporting, and dissemination of results under subsections (a), (c), (d), and (f), the Secretary is authorized to reserve up to 2 percent of the amounts appropriated pursuant to subparagraphs (1) and (2) for administration of the program as well as for planning and technical assistance.".

SEC. 208. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1994.

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE AMENDMENTS

SECTION 301. SHORT TITLE AND REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Low-Income Home Energy Assistance Amendments of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 302. STATEMENT OF PURPOSE.

Section 2602(a) (42 U.S.C. 8621(a)) is amended to read as follows:

"(a) In order to assist low-income households, particularly those with the lowest incomes that pay a high proportion of their income for home energy, both in meeting their immediate home energy needs, and in attaining the capacity to meet such needs independently in the future, the Secretary of Health and Human Services may make grants to States for programs and activities consistent with this title.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNTS AUTHORIZED.—Section 2602 (42 U.S.C. 8621) is amended—

(1) in subsection (b), by striking "this title" and all that follows through the end of the first sentence and inserting "this title, $2,000,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1999."; and

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "(1)";

(ii) by striking "July 1" and inserting "October 1"; and

(iii) by striking "for which" and inserting "following the year in which"; and

(B) by striking paragraphs (2) and (3);

(b) INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL SOURCES.—Subsection (d) of section 2602 (42 U.S.C. 8621(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out section 2607A, $50,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 1999.".

SEC. 304. EMERGENCY FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 (42 U.S.C. 8621), as amended by section 303, is amended by adding at the end thereof the following:

"(e) There is authorized to be appropriated in each fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (g)), $600,000,000 to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursu-

ant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that includes a designation of the amount requested as an emergency requirement as defined in such Act.".

(b) HOME ENERGY.—Section 2603 (42 U.S.C. 8622(3)) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (4), (5), (6), (7), (8), and (9), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) The term 'energy burden' means the expenditures of the household for home energy divided by the income of the household."; and

(3) by inserting before paragraph (4), as so redesignated, the following:

"(3) The term 'highest home energy needs' means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.".

(c) ALLOTMENT OF EMERGENCY FUNDS.—Section 2604 (42 U.S.C. 8623) is amended by adding at the end thereof the following:

"(g) Notwithstanding subsections (a) through (f), the Secretary may allot amounts appropriated pursuant to section 2602(e) to one or more than one State. In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant. The Secretary shall notify Congress of the proposed allotment pursuant to this subsection before releasing the allotted funds.".

SEC. 305. AUTHORIZED USES OF FUNDS.

(a) IN GENERAL.—Paragraph (1) of section 2605(b) (42 U.S.C. 8624(b)(1)) is amended to read as follows:

"(1) use the funds available under this title to—

"(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

"(B) intervene in energy crisis situations;

"(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;".

(b) ENCOURAGED REDUCED HOME ENERGY NEEDS.—Section 2605(b) (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (14) by striking "and" at the end;

(2) in paragraph (15), by striking the period and inserting "; and"; and

(3) by inserting after paragraph (15) the following:

"(16) use such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors.".

SEC. 306. TARGETING OF ASSISTANCE OF HOUSEHOLDS WITH HIGH HOME ENERGY BURDENS.

(a) HOUSE INCOME.—Section 2605(b)(2)(B) (42 U.S.C. 8624(b)(2)(B)) is amended by striking the matter following clause (ii) and inserting the following:

"except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;".

(b) OUTREACH ACTIVITIES.—Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "are made aware" and inserting "and households with high home energy burdens, are made aware".

(c) ASSISTANCE LEVELS.—Section 2605(b)(5) (42 U.S.C. 8624(b)(5)) is amended by inserting "or needs" after "highest energy costs".

(d) STATE PLAN.—Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (H), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;".

SEC. 307. CLARIFICATION OF AUDIT REQUIREMENT.

Section 2605 (42 U.S.C. 8624) is amended—

(1) in subsection (b)(10), by striking "and provide that" and all that follows and inserting "and provide that the State will comply with chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act');"; and

(2) in subsection (e), by striking "at least every two years" and all that follows and inserting "in accordance with chapter 75 of title 31, United States Code.".

SEC. 308. USE OF DEPARTMENT OF ENERGY WEATHERIZATION RULES TO ACHIEVE PROGRAM CONSISTENCY.

Section 2605(c)(1)(D) (42 U.S.C. 8624(c)(1)(D) is amended by inserting before the semicolon at the end thereof the following: ", including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements".

SEC. 309. MATTERS TO BE DESCRIBED IN ANNUAL APPLICATION.

Section 2605(c)(1) (42 U.S.C. 8624(c)(1)) is amended—

(1) in subparagraph (F) (as so redesignated by section 306(d) of this Act)—

(A) by striking "and (13)" and inserting "(13), and (15)"; and

(B) by striking "and" at the end thereof; and

(2) by inserting after subparagraph (F) (as so redesignated by section 306(d) of this Act), the following:

"(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

"(i) one or more members who has attained 60 years of age;

"(ii) one or more members who were disabled; and

"(iii) one or more young children; and".

SEC. 310. REPORT OF FUNDS AVAILABLE FOR OBLIGATION.

Section 2607(a) (42 U.S.C. 8628(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following:

"(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.".

SEC. 311. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(A) IN GENERAL.—

(1) TREATMENT OF HOUSEHOLDS.—Section 2605b)(7)(D) (42 U.S.C. 8624(b)(7)(D)) us amended to read as follows:

"(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for compacts between suppliers and individuals eligible for benefits under this title that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;".

(2) INCENTIVE PROGRAM.—Section 2607A(e) (42 U.S.C. 8626a(e)) is amended by striking "July 31, of each year" and inserting "2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b)".

(3) TRAINING AND TECHNICAL ASSISTANCE.—Section 2609A(a) is amended by striking "$500,000" and inserting "$250,000".

(b) TECHNICAL AMENDMENTS.—

(1) Section 2602 (42 U.S.C. 8621) is amended—

(A) in subsection (b), as amended by section 303 of this Act—

(i) by inserting "(other than section 2607A)" after "to carry out the provisions of this title"; and

(ii) by striking the second period at the end thereof; and

(B) in subsection (c)(1) by striking "Act" and inserting "title".

(2) Section 2603(2) (42 U.S.C. 8622(2)), as amended by section 304 of this Act, is amended—

(A) by striking "(4) the" and inserting "(4) The"; and

(B) by striking the semicolon at the end thereof and inserting a period.

(3) Section 2604 (42 U.S.C. 8223) is amended—

(A) in subsection (b)(1) by inserting "of the United States" after "Virgin Islands"; and

(B) in subsection (c)(B)(3)(ii) by striking "application" and inserting "applications".

(4) The sentence that immediately precedes paragraph (15) of section 2605(b) (42 U.S.C. 8624(b)) is transferred so as to appear as a flush sentence immediately after paragraph (16).

(5) Section 2605(b)(3) (42 U.S.C. 8624(b)(3)) is amended by striking "handicapped" and inserting "disabled".

(6) Section 2607A(c)(2) (42 U.S.C. 8626a(c)(2)) is amended by striking ".0008 percent" and inserting "0.08 percent".

(7) Section 2610(a) (42 U.S.C. 8629(a)) is amended—

(A) in paragraph (2), by striking the semicolon after "used" and inserting a semicolon after "title"; and

(B) in paragraph (5)—

(i) by striking "handicapped" and inserting "disabled"; and

(ii) by inserting before the semicolon at the end thereof "or include young children".

(c) CRITERIA AND REPORT.—Section 2605(b) (42 U.S.C. 8624(b)), as amended by subsection (b) of this section, is amended by adding at the end the following: "The Secretary shall develop performance goals and measurements in consultation with State, tribal, and local grantees, that the States may use to assess their success in achieving the purposes of this title and shall, beginning in 1996, makes such goals and measurements available together with the model plan required by paragraph (3). Not later than 18 months after the date of the enactment of this sentence, the Secretary shall report to the committees of the House of Representatives and of the Senate that have jurisdiction of this title, on the manner in which, and the degree to which State and local energy assistance programs carried out under this title are meeting the purposes of this title and on any improvements or changes necessary to accelerate the achievement of these goals. The Secretary may not require additional program or client data to be collected by grantees for such report.".

SEC. 312. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.C.H.).

The Act is amended by inserting after section 2607A the following:

"SEC. 2607B. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.C.H.).

"(a) For fiscal year 1996, and each subsequent fiscal year, the Secretary shall allocate not less than 5 percent of the amount appropriated under section 2607A for such fiscal year to a Residential Energy Assistance Challenge Fund for the purpose of making challenge grants to States that submit qualifying plans that are approved by the Secretary for a Residential Energy Assistance Challenge (in this section referred to as 'R.E.A.Ch.') initiative in such State. States may use such grants—

"(1) for the costs of planning, implementing, and evaluating the initiative; and

"(2) for the costs of achieving performance goals including the long-term reduction of the energy burden program dependency of households eligible for, or receiving, energy assistance under this title, and those goals set out in subsection (b) of the initiative established by the States and approved by the Secretary.

"(b) The Secretary shall establish criteria for approving State plans required by subsection (a). Such criteria shall require such plans to include the following goals:

"(1) To minimize health and safety risks that result from high energy burdens on low-income Americans.

"(2) To prevent homelessness as a result of inability to pay energy bills.

"(3) To increase the efficiency of energy usage by low-income families.

"(4) To target energy assistance to those most in need.

"(5) To encourage eventual energy self-sufficiency for low-income persons.

"(c)(1) Notwithstanding subsection (a), the Secretary may not approve a State plan submitted under such subsection unless such plan includes provisions acceptable to the Secretary with respect to each of the required program elements specified in subsection (d).

"(2) The Secretary may require a State to provide appropriate documentation that its R.E.A.Ch. activities conforms to the State plan as approved by the Secretary.

"(3) Subject to approval by the Secretary, a State plan may include benefits and services in addition to those required program elements specified in subsection (d) that are consistent with the purpose of this title and the R.E.A.Ch. Challenge Option.

"(4) A State may designate all or part of the State, or all or part of the client population, as the focus of its R.E.A.Ch. initiative.

"(d) Each State plan submitted under subsection (a) shall include the following:

"(1)(A) An assurance that such State will provide R.E.A.Ch. services will be delivered through community-based nonprofit entities in such State by—

"(i) making grants to or contracts with such entities for the purpose of providing such services and benefits directly to individuals eligible for such services and benefits; or

"(ii) if a State makes payments directly to eligible individuals or energy suppliers, making contracts with such local entities to administer such programs, including determining eligibility, providing outreach services, and providing noncash benefits.

"(B) An assurance that in making grants or contracts to carry out such R.E.A.Ch. initiative, States shall give priority in selecting organizations described in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)); organizations which the Secretary has determined have a record of successfully providing energy services under this title; and organizations that receive weatherization assistance program funds under this title, except that a State may not require any such entity to operate a R.E.A.Ch. initiative program.

"(2) An assurance that all entities that receive grants or contracts under paragraph (1)(A) will provide a program of services and benefits that includes, at a minimum—

"(A) payments to or on behalf of individuals eligible for residential energy assistance services and benefits pursuant to section 2605(b) for home energy costs;

"(B) home-energy-demand-management services, such as residential weathrization energy education and other energy-related home repair which services to be provided jointly with existing Department of Energy weatherization assistance programs;

"(C) counseling and needs assessment on energy budget management, payment plans, and related services; and

"(D) advocacy on behalf of households eligible for R.E.A.Ch. services and benefits before home energy suppliers and State or local energy regulatory officials.

"(3) A description of the methodology the State will use to determine—

"(A) which households will receive 1 or more forms of benefits under the State R.E.A.Ch. initiative;

"(B) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than monetary benefits alone.

"(4) A method for targeting nonmonetary benefits that is not inconsistent with the requirements of section 2605.

"(5) A description of the crisis and emergency assistance activities the State will carry out to demonstrate that such assistance provided under this section is designed to discourage crises, to encourage responsible vendor and consumer behavior, and to provide no financial incentive that discourages household payment.

"(6) A description of the activities the State will carry out to provide incentives for recipients of such assistance to pay home energy costs and for responsible vendor behavior. If such plan contains provisions for direct payments to vendors, such plan shall describe efforts such State will carry out—

"(A) to encourage regular payments by individuals or households receiving financial assistance for home energy costs;

"(B) to provide for compacts or covenants between suppliers of home energy and individuals eligible for services and benefits under this title that reduce home energy costs and minimize the risk of home energy crisis;

"(C) to ensure that local entities providing services and benefits under this title have staff who are charged with ensuring responsible vendor behavior;

"(D) to ensure that direct payments to vendors is at the option of the State and local providers and may be contingent on vendors taking appropriate measures to alleviate the energy burdens of eligible households.

"(7) Information and assurances demonstrating that R.E.A.Ch. services and benefits will be targeted to—

"(A) households with high energy burdens; and

"(B) individuals with acute health or safety vulnerability including small children, frail older individuals, and individuals with temporary energy-related emergencies.

"(8)(A) A detailed description of the financial standards that will be applied for determining eligibility for R.E.A.Ch. services and benefits. Such standards shall require that the highest level of assistance under this section will be furnished to households that have highest energy burdens.

"(B) An assurance that such State will require entities providing R.E.A.Ch. services or benefits to establish priorities for providing services to individuals residing in its service area consistent with the purposes of the State R.E.A.Ch. initiative.

"(9)(A) An assurance that such State has conducted public hearings, after giving notice in public media and by mail to all subgrantees, (DOE/WAP) subgrantees, and community action agencies, with respect to the provisions of such plan and before submitting such plan to the Secretary for approval.

"(B) A summary of comments received at such public hearing.

"(C) An assurance that such plan and any revision thereof submitted to the Secretary will be made available for public inspection in such a manner as will facilitate timely and meaningful review of, and comment.

"(10) An assurance that the State will require entities that receive funds under this section to take appropriate measures to solicit the views of individuals who are financially eligible for benefits and services under this section in establishing its local service priorities.

"(11) A description of specific performance goals for the State R.E.A.Ch. initiative and a description of the indicators that will be used to measure whether such performance

goals have been achieved. Such performance goals shall include 1 or more of the following and such other goals as the Secretary may require:

"(A) To increase in the affordability of energy over 1 or more fiscal years.

"(B) To increase the regularity of home energy bill payments by eligible households.

"(C) To increase energy vendor contributions toward the costs of home energy on behalf of eligible individuals and households.

"(D) To decrease the incidence of homelessness and health and safety risks resulting from high household energy burdens.

"(e)(1) The Secretary may waive on request administrative cost ceilings and carryover requirements otherwise applicable to the first 3 years of the operation of a R.E.A.Ch. program's operations.

"(2) None of the costs of providing services or benefits required under this subsection shall be considered to be an administrative cost or function for purposes of any limitation on such administrative cost or functions contained in this title.

"(3) In verifying income eligibility for purposes of subsection this section, the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the Community Services Block Grant program, under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this section, or under other income assistance or service programs (as determined by the State).

"(4) Neither a State nor a local provider of services or benefits shall be required to provide services or benefits to an individual or household if such provision is inconsistent with State or local priorities.

"(5) If a State chooses to pay home energy suppliers directly, the State plan shall include procedures identified in section 2605 of this title.".

SEC. 313. SENSE OF THE CONGRESS REGARDING APPROPRIATIONS FOR LIHEAP.

(a) FINDINGS.—(1) Seventy-seven percent of the over 25 million households that were eligible for the Low-Income Home Energy Assistance Program (hereinafter referred to as "LIHEAP") in fiscal year 1992 did not receive assistance due to a lack of funds.

(2) Recent economic distress has caused significant unemployment, which has resulted in a greater need for energy assistance than ever before.

(3) More than 66 percent of LIHEAP household recipients have an annual income that is below the poverty level.

(4) Forty-three percent of all LIHEAP eligible households include children.

(5) LIHEAP eligible households with children spend approximately 16 percent of their annual incomes on home energy costs, which is more than 4 times greater than that paid by the average household in the United States, and far beyond their means.

(6) Approximately 40 percent of LIHEAP household recipients are comprised of elderly or disabled persons.

(7) LIHEAP is an essential, long-term Federal program that is crucial to the well-being of impoverished American families and their children.

(8) Congress appropriated $1,475,000,000 for LIHEAP for fiscal year 1995.

(9) The Department of Energy predicts that the costs of residential fuels will increase at a pace greater than inflation.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the maintenance of LIHEAP should be a high priority in order to enable the working poor, the disabled, and the low-income elderly, who all depend on LIHEAP, to meet their energy costs and needs;

(2) all appropriations made for LIHEAP for fiscal year 1995 should be expended; and

(3) expenditures for LIHEAP for fiscal year 1996 should ensure the provision of services at or above the level provided in fiscal year 1995.

SEC. 314. EFFECTIVE DATE.

The amendments and repeals made by this title shall become effective on October 1, 1994.

TITLE IV—COMMUNITY-BASED FAMILY RESOURCE PROGRAMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Family Resource and Support Act of 1994".

SEC. 402. COMMUNITY-BASED FAMILY SUPPORT AND FAMILY RESOURCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered and family-directed, comprehensive, statewide system of family support and family resource services in collaboration with existing education, vocational rehabilitation, health, mental health, employment and training, child welfare, and other social services agencies within the State.

(b) AUTHORITY.—The Commissioner shall make grants to States for the purpose of—

(1) establishing and expanding statewide a system of community-based family support and family resource programs, including funds for the initial costs of providing specific family resource services, that ensure family involvement in the design and operation of family support and family resource programs which are responsive to the unique and diverse strengths of children and families;

(2) ensuring the active involvement of families of children with disabilities in the planning, development, implementation and evaluation of such a statewide system;

(3) promoting child abuse and neglect prevention activities;

(4) promoting the establishment and operation of State trust funds or other mechanisms for integrating child and family services funding streams in order to provide flexible funding for the development of community-based family support and family resource programs;

(5) establishing or expanding community-based collaboration to foster the development of a continuum of preventive services for children and families, which are family-centered and culturally competent;

(6) increasing and promoting interagency coordination among State agencies, and encouraging public and private partnerships in the establishment and expansion of family support and family resource programs; and

(7) facilitating the changing of laws, regulations, policies, practices, procedures, and organizational structures, which impede the availability or provision of family support and family resource services.

(c) ELIGIBILITY FOR GRANTS.—A State is eligible for a grant under this section for any fiscal year if—

(1) such State has established or maintained in the previous fiscal year—

(A) a trust fund, including appropriations for such fund; or

(B) any other mechanism for integrating family resource services funded by Federal, State, or private sources; and

(2) such trust fund or other funding mechanism includes (in whole or in part) provisions making funding available specifically for a broad range of child abuse and neglect prevention activities and family support and family resource programs.

(d) AMOUNT OF GRANT.—

(1) IN GENERAL.—Amounts appropriated for a fiscal year to provide grants under this section shall be allotted, among eligible States in each fiscal year so that—

(A) 50 percent of the total amount appropriated for such fiscal year is allotted among each State based on the number of children under the age of 18 residing in each State, except that each State shall receive not less than $1,000,000, and each territory shall receive not more than $100,000; and

(B) the remaining 50 percent of the total amount appropriated for such fiscal year is allotted in an amount equal to 25 percent of the total amount allocated by each such State to the State's trust fund or other mechanism for integrating family resource services in the fiscal year prior to the fiscal year for which the allotment is being determined.

(2) MINIMUM GRANT AMOUNT.—If the amount appropriated for any fiscal year is less than $50,400,000, grants shall be awarded on a competitive basis with no grantee receiving less than $1,000,000.

(3) AWARD PERIOD.—Grants made on a competitive basis shall be awarded for a period of 3 years and shall be calculated in the manner described in paragraph (1).

(4) GRANTS TO TERRITORIES.—From amounts appropriated to carry out this section for any fiscal year, the Commissioner shall pay to each territory that has an application approved under this section not more than $100,000.

(e) EXISTING GRANTS.—A State that has a grant in effect on the date of enactment of this section under the Family Resource and Support Program shall continue to receive funds under such Program, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

(f) APPLICATION.—No grant may be made to any eligible State under this section unless an application is prepared and submitted to the Commissioner at such time, in such manner, and containing or accompanied by such information as the Commissioner determines to be essential to carry out the purposes and provisions of this section, including—

(1) a description of the agency designated by the Chief Executive Officer of the State to administer the funds provided under this section and assume responsibility for implementation and oversight of the family support and family resource programs and other child abuse and neglect prevention activities, and an assurance that the agency so designated—

(A) is the trust fund advisory board or an existing quasi-public organization with interdisciplinary governance that pools State, Federal, and private funds for family support and family resource programs or integrating child and family service resources; or

(B) with respect to a State without a trust fund mechanism or quasi-public organization that meets the requirements of subparagraph (A), is an existing State agency, or other public, quasi-public, or nonprofit private agency responsible for the development and implementation of a statewide network of community-based family support and family resource programs;

(2) assurances that the agency designated under paragraph (1) can demonstrate the ca-

pacity to fulfill the purposes described in subsection (a), and shall have—

(A) a demonstrated ability to work with other State and community-based agencies, to provide training and technical assistance;

(B) a commitment to parental participation in the design and implementation of family support and family resource programs;

(C) the capacity to promote a statewide system of family support and family resource programs throughout the State; and

(D) the capacity to exercise leadership in implementing effective strategies for capacity building, family and professional training, and access to and funding for family support and family resource services across agencies;

(3) an assurance that the lead entity will coordinate the activities funded through a grant made under this section with the activities carried out by councils within the State, including the following councils:

(A) the State Interagency Coordinating Council, established under part H of the Individuals with Disabilities Education Act;

(B) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

(C) the State Rehabilitation Advisory Council, established under the Rehabilitation Act of 1973;

(D) the State Development Disabilities Planning Council, established under the Developmental Disabilities Assistance and Bill of Rights Act; and

(E) other local or regional family support councils within the State, to the extent that such councils exist;

(4) an assurance that the lead agency will actively coordinate with the councils referred to in Paragraph (3) in carrying out the development and implementation, or expansion and enhancement of, a family-centered and family-directed, comprehensive, statewide system of family support and family resource services.

(5) an assurance that the State has an interagency process coordinated by the agency designated in paragraph (1) for effective program development that—

(A) does not duplicate existing processes for developing collaborative efforts to better serve children and families;

(B) provides a written plan for the establishment of a network of family support and family resource programs publicly available; and

(C) involves appropriate personnel in the process, including—

(i) parents and prospective participants in family support and family resource programs, including respite care programs;

(ii) staff of existing programs providing family support and family resource services, including staff of Head Start programs and community action agencies that provide such services;

(iii) representatives of State and local government such as social service, health, mental health, education, vocational rehabilitation, employment, economic development agencies, and organizations providing community services activities;

(iv) representatives of the business community;

(v) representatives of general purpose local governments;

(vi) representatives of groups with expertise in child abuse prevention, including respite and crisis care;

(vii) representatives of local communities in which family support and family resource programs are likely to be located;

(viii) representatives of groups with expertise in providing services to children with disabilities; and

(ix) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

(6) a description of the current family support and family resource programs operating in the State, the current unmet need for the services provided under such programs, including the need for building increased capacity to provide specific family resource and family support services, including respite care, and the intended scope of the State family support and family resource program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

(7) evidence that Federal assistance received under this section—

(A) has been supplemented with non-Federal public and private assistance, including a description of the projected level of financial commitment by the State to develop a family support and family resource program; and

(B) will be used to supplement and not supplant other State and local public funds expended for family support and family resource programs;

(8) a description of the core service, as required by this section, and other support services to be provided by the program and the manner in which such services will be provided, including the extent to which either family resources, centers, home visiting, or community collaboratives will be used;

(9) an assurance that the lead agency will ensure that the amount of Federal funds spent on respite care services within the State during the previous fiscal year shall be maintained;

(10) a description of any public information activities the agency designated in paragraph (1) will undertake for the purpose of promoting family stability and preventing child abuse and neglect, including child sexual abuse;

(11) an assurance that the State will provide funds for the initial startup costs associated with the development of 1 respite program annually in the State, as well as other specific family resource services, and a description of the services to be funded;

(12) an assurance that the State program will maintain cultural diversity and be culturally competent;

(13) a description of the outreach and other activities the program will undertake to maximize the participation of racial and ethnic minorities, persons with limited-English proficiency, individuals with disabilities, and members of other underserved or underrepresented groups in all phases of the program;

(14) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(15) a description of the State and community-based interagency planning processes to be utilized to develop and implement family support and family resource programs;

(16) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (g);

(17) a plan for providing training, technical assistance, and other assistance to local communities in program development;

(18) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family support and family resource programs within the State;

(19) a description of proposed actions by the State will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family support and family resource programs; and

(20) an assurance that the State will provide the Commissioner with reports, at such time and containing such information as the Commissioner may require.

(g) LOCAL PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—A State that receives a grant under this section shall use amounts received under such grant to establish local family support and family resource programs that—

(A) undertake a community-based needs assessment and program planning process which involves parents, and local public and nonprofit agencies (including those responsible for providing health, education, vocation rehabilitation, employment training, Head Start and other early childhood, child welfare, and social services);

(B) develop a strategy to provide comprehensive services to families to meet identified needs through collaboration, including public-private partnerships;

(C) identify appropriate community-based organizations to administer such programs locally;

(D) provide core services, and other services directly or through contracts or agreements with other local agencies; and

(E) involve parents in the development, operation, and governance of the program.

(2) PRIORITY.—In awarding local grants under this section, a State shall give priority to programs serving low-income communities and programs serving young parents or parents with young children and shall ensure that such grants are equitably distributed among urban and rural areas.

(h) DEFINITIONS.—As used in this section:

(1) CHILDREN WITH DISABILITIES.—The term "children with disabilities" has the meaning given such term in section 602(a)(1) of the Individuals with Disabilities Education Act.

(2) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families.

(3) COMMUNITY REFERRAL SERVICES.—The term "community referral services" means services to assist families in obtaining community resources, including respite care services, health and mental health services, employability development and job training and other social services.

(4) CULTURALLY COMPETENT.—The term "culturally competent" means services, supports, or another assistance that is conducted or provided in a manner that—

(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of these individuals receiving services; and

(B) has the greatest likelihood of ensuring maximum participation of such individuals.

(5) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term "family-centered and family-directed" means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide sys-

tem of family support and family resource services for families;

(B) responds to the needs of the entire family in a timely and appropriate manner; and

(C) is easily accessible to and usable by families.

(6) FAMILY SUPPORT.—The term "Family support"—

(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

(i) support families in the efforts of such families to raise their children with disabilities in the family home;

(ii) strengthen the role of the family as primary caregiver;

(iii) prevent inappropriate out-of-the-home placement and maintain family unity; and

(iv) reunite families with children with disabilities who have been placed out of the home, whenever appropriate; and

(B) may include—

(i) service coordination that includes individualized planning and brokering for services with families in control of decision making;

(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanent or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, recreation and leisure activities, specialized nutrition, clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care, child care and camps, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids and toys; and

(iii) financial-assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

(7) FAMILY SUPPORT AND FAMILY RESOURCE PROGRAM.—The term "family support and family resource program" means a program that offers community-based services that provide sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(A) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(B) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(C) the creation of supportive networks to enhance the child-rearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

(8) FAMILY RESOURCE SERVICES.—The term "family resource services" means—

(A) core services that must be provided directly, or by referral or contract, by the family support and family resource program under this section, including—

(i) education and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) early developmental screening of children to assess the needs of such children and to identify the types of support to be provided;

(iii) respite care services which are available 24 hours per day and every calendar day of the year;

(iv) outreach services;

(v) community referral services; and

(vi) follow-up services; and

(B) other services, which may be provided either directly or through referral, including—

(i) early care and education (such as child care and Head Start);

(ii) respite care;

(iii) job readiness and counseling services (including skill training);

(iv) education and literacy services, including English as a second language and family literacy services;

(v) nutritional education;

(vi) life management skills training;

(vii) peer counseling and crisis intervention, and family violence counseling services;

(viii) referral for health (including prenatal care) and mental health services; and

(ix) substance abuse treatment.

(9) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term "family-centered and family-directed" means, with respect to a service or program, that the service or program—

(A) facilitates the full participation, choice, and control by families in—

(i) decisions relating to the supports that will meet the priorities of the family; and

(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families;

(B) responds to the needs of the entire family in a timely and appropriate manner; and

(C) is easily accessible to and usable by families.

(10) INTERDISCIPLINARY GOVERNANCE.—The term "interdisciplinary governance" includes governance by representatives from communities and representatives from existing health, mental health, education, vocational rehabilitation, employment and training, child welfare, and other agencies within the State.

(11) RESPITE CARE SERVICES.—The term "respite care services" means short-term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, guardian) to children who meet one or more of the following categories:

(A) The children are in danger of abuse or neglect.

(B) The children have experienced abuse or neglect.

(C) The children have disabilities, or chronic or terminal illnesses.

Services provided within or outside the child's home shall be short-term care, ranging from a few hours to a few weeks of time, per year, and be intended to enable the family to stay together and to keep the child living in the child's home and community.

(i) Strategic Plan.—

(1) IN GENERAL—Not later than 1 year after the date on which assistance is received by a State under this section, the lead agency of the State, shall prepare and submit to the Commissioner, a strategic plan designed to achieve the purposes and policy of this section.

(2) CONTENTS.—The strategic plan shall include—

(1) a statement of the mission, philosophy, values, and principles of the statewide system of family support and family resources in the State;

(2) a statement of family-centered outcomes to be achieved by the statewide system of family support and family resources;

(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support and family resource services, and for achieving the family-centered outcomes;

(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation that builds upon state-of-the-art practices and research findings;

(5) a description of the specific programs, projects, and activities funded under this section and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system.

(7) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this section that includes all eligible families;

(8) an analysis of the extent to which family support and family resource services for an individual family is defined as a benefit and not as income; and

(9) a description of the plan to conduct an annual evaluation of the statewide system of family support and family resources.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 and 1997.

(k) REPEAL OF EXISTING PROGRAM.—Section 933 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12339) is repealed.

SEC. 403. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

Section 918 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12314) is amended—

(1) in subsection (k)—

(A) in paragraph (3), by striking out "and" at the end thereof;

(B) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following:

"(5) identify program regulations, practices, and eligibility requirements that impeded coordination and collaboration and make recommendations for their modifications or elimination; and

"(6) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures and confidentiality protections that facilitate information sharing.";

(2) in subsection (o), by striking "1991 through 1994" and inserting "1995 through 1998"; and

(3) in subsection (p), by striking "1995" and inserting "1998".

SEC. 404. FAMILY RESOURCE ACT.

(a) NATIONAL CENTER.—Section 958(b) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12353(b)) is amended—

(1) in paragraph (3)—

(A) by striking "model"; and

(B) by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(5) develop and maintain a system for disseminating information about all types of respite care options;

"(6) develop and provide an array of training and technical assistance activities to establish and maintain quality respite care options;

"(7) engage in a variety of evaluation and research activities to identify effective models of respite care services, examine the effects of respite care services on family functioning, and to develop simple evaluation models for use by local respite care service programs.".

(b) AUTHORIZATION AND APPROPRIATIONS.—Section 960 of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12355) is amended—

(1) in subsection (a), by striking $2,300,000" and all that follows through the end thereof and inserting $2,000,000 for each of the fiscal years 1995 through 1998."; and

(2) in subsection (b), by striking "$700,000" and all that follows through the end thereof and inserting "$1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me acknowledge the tremendous leadership of Chairman FORD of the Education and Labor Committee in bringing this reauthorization bill to the floor today.

As Members know, the other body has passed a companion version of the reauthorization bill, and we believe that the differences between the bill proposed here today and the version passed by the other body, while important to the House of Representatives, are not so material that a final conference agreement will be delayed.

In addition to reauthorization of Head Start, H.R. 4250 reauthorizes two other significant programs and makes changes or extensions to several smaller programs.

I know that my colleagues on both sides of the aisle support those programs and that many of them would like to contribute to this debate, so I will not take a great deal of time describing all of the changes.

As I said, title I of the bill addresses the reauthorization of Head Start.

As with the companion bill in the other body this bill addresses nearly all of the recommendations made in the report of the Secretary's bipartisan advisory committee on Head Start quality and expansion.

I would like to acknowledge the tremendous work that was done by that bipartisan advisory committee, which was composed of Head Start professionals, child development and child education specialists, academics, administration officials from several agencies, and staff of both Houses of Congress from both political parties.

I believe that this bill will accomplish most, if not all, of the desired results spelled out in that bipartisan report and I thank Secretary Donna Shalala for her foresight in empaneling the group and guiding its work.

This bill reauthorizes Head Start for 4 years, provides for improvement of the program through revised monitoring and assistance rules, expands the work that has been done by parent-child centers for a quarter century into a new infants and toddler's initiative—one that builds on the work of those centers and protects their continued existence.

H.R. 4250 strengthens the Secretary's ability to deal with poorly performing grantees.

The bill also addresses a number of issues raised by Indian Head Start grantees, migrant Head Start programs, and rural programs, although it does not contain one of the centerpieces that I and many of my colleagues believe is essential to the continued expansion and improvement of these programs—the ability of Head Start grantees to construct their own facilities where there are only more expensive or virtually no other means of securing quality facilities.

Let me assure you here today and my friends throughout the Head Start community that I am committed to seeing that construction is addressed at the earliest possible time.

The bill also creates a new Head Start Fellowship program, and mentor teacher positions within Head Start, so that these dedicated people who are the backbone of Head Start can continue to be recognized and achieve greater professional fulfillment.

Finally, the involvement of parents in the education of their children is a central aspect of Head Start, and we have, with the very able assistance of Mr. GOODLING, ranking member of the committee, and Ms. MOLINARI, ranking member of the subcommittee, added new language that will enable Head Start grantees to expand and improve programs, including family literacy programs: that will better enable parents to understand and fulfill that vital role in the development of their children and getting them ready to learn.

Title II of H.R. 4250 provides for the reauthorization of the Community Services Block Grant.

In developing this title, and consistent with the action of the other body, we have tended to deviate from the proposal put forward by the administration in its reauthorization bill.

We understand and accept the view that hard choices must be made in times of fiscal difficulty, and we appreciate the efforts of the administration, under the Reinventing Government Program, to streamline Federal activities and eliminate programs that can successfully be integrated into other Federal efforts.

However, we also recognize that some of the programs currently authorized under the Community Services Block Grant Act with separate authorizations and separate appropriations do serve unique needs and operate outside of the mainstream community services effort.

Thus, we have retained the separate authorizations for the McKinney Emergency Homeless Assistance Program, which is the only Federal program that addresses prevention of homelessness, rather than dealing with persons who are already homeless.

We have retained the separate authorization for the Community Food and Nutrition Program.

As we learned in our reauthorization hearings, this program is critical to the States' ability to continue to develop nutrition programs for poor students in the Nations public schools, and that need cannot be met fully as part of the general program.

Finally, the National Youth Sports Program is again separately authorized under this bill so that it can continue to provide unique opportunities to young people in campus based recreation, sports and learning programs and offer hope instead of despair, and a place to go that is safe and nurturing.

Title III of the bill reauthorizes the Low Income Home Energy Assistance Program.

I would like to thank Chairman DINGELL of the Energy and Commerce Committee, my fellow Californian, Mr. MOORHEAD, ranking member of the committee, and Chairman SHARP and Mr. BILIRAKIS of the Energy and Power Subcommittee, for their cooperation in moving this reauthorization, over which we share jurisdiction.

I believe that the LIHEAP reauthorization represents the continued support that this body has for this critical program, and that the changes we have proposed will strengthen the administration of this vital program at all levels.

Finally, title IV of H.R. 4250, reauthorizes and reconstitutes the Family Support and Family Resources Program originally enacted as part of the Claude Pepper Young Americans Act.

I wish to acknowledge the support and assistance of Chairman MAJOR OWENS of the Select Education and Civil Rights Subcommittee for his review and recasting of this title during markup at the full committee. It has been invaluable to crafting a strong proposal and one that I, of course, wholeheartily support.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4250, the reauthorization of the Gus

Hawkins Human Services Act. This important legislation contains separate reauthorizations for Head Start, CSBG, LIHEAP, and other programs.

H.R. 4250 and all its components is a product of lengthy negotiations which have resulted in a bipartisan bill. It is not a perfect bill, but, of course, no legislation ever is. However, it contains important provisions of which I am particularly proud, provisions that I believe move these programs in the right direction.

First, contained in title I, which reauthorizes Head Start, there are several mechanisms which will improve the quality of services provided to needy children under the Head Start program. I have been a voice in the wilderness for years saying that we should get beyond the business of just talking about access and more money so we can cover more people but talk about what we are covering them with. We should be covering them with excellence, and that is what this legislation is about today.

Many of these ideas came from the bill that the gentlewoman from New York [Ms. MOLINARI] and Senator KASSEBAUM and I introduced in the Head Start Quality Improvement Act.

During the history of Head Start Congress has spent over $27 billion of the taxpayers' money to fund the program, and yet we do not have the necessary research at the present time to show what lasting benefits there are. Therefore, that was one of the reasons why we wanted to concentrate on quality rather than just numbers of children. If we cannot be confident that the quality of services we are paying for produces real results for these children, then, of course, we should not be spending more money.

Head Start programs in many areas make a positive impact on children's lives. The programs must provide the highest quality services possible in order to do this. I firmly believe that our first priority with Head Start must be to wrap these kids in excellence, and I think those improvements are built into H.R. 4250.

Also contained in the Head Start section of the bill are provisions to increase parental involvement in Head Start. What we are trying to do is make sure that all parents participate and that all parents receive parenting skills when needed and all parents improve their literacy skills. If that parent is going to be the first and most important teacher that the child has and if the child is going to succeed, that parent must be the most important teacher the child will ever have, and in order to provide that we must make sure they have the parenting skills to do it and they have the literacy skills in order to do it. I believe this legislation will go a long way to do that.

Many people have been talking about family literacy for a long, long time, but we have been very slow to really get around to the business of insisting on family literacy programs. I believe we are moving in that direction in this bill.

The bill also has some other provisions that I am very much interested in, but I will move next to LIHEAP. I think the reauthorization of LIHEAP shows that we have strong support in the Congress for the LIHEAP program. The last bitter winter for many of us indicates just how important that program is. Therefore, it is not one of those programs we can look at and say that we will cut 50 percent of the funding that has been recommended, because it is one that is very, very important when it comes to helping families.

I believe the purposes of the Community Services Block Grant program could be effectively met under a consolidated funding stream, but even under the current structure many of the CSBG programs have a very positive impact on our local communities. For example, in York County, Edith Huntsberger has done an excellent job in leading the Community Progress Council. The organization, using CSBG funds, coordinates the services of several existing programs and takes the initiative to identify service gaps and create the necessary programs to address these unmet needs. The Community Progress Council is a wonderful example in many areas of the kind of innovative and effective organization that CSBG funds support.

Of course, there are other components of H.R. 4250 that I would prefer be eliminated, and I would hope that before it is all finished we will be able to do that. But overall we have worked very well together to develop a good peace of legislation, and I urge my colleague to support it.

Mr. Speaker, I would like to thank the gentleman from Michigan [Mr. FORD], the gentlewoman from New York [Ms. MOLINARI], and the gentleman from California [Mr. MARTINEZ] for working together with me to develop this important legislation, and I also want to thank the gentleman from New York [Mr. OWENS] and the gentleman from North Carolina [Mr. BALLENGER] for their contributions to title IV of the bill. And, of course, I thank the staffs who have worked very well in a bipartisan fashion, with the whole idea of helping people.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER], chairman of the Democratic Caucus.

□ 1310

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding time to me, and I congratulate him for his work, and thank my good friend, the gentleman from Pennsylvania [Mr. GOODLING], the ranking member, as well.

Mr. Speaker, I rise today in support of H.R. 4250, which reauthorizes—and in some key ways reinvents—the Head Start Program.

I want to touch briefly on several of those key improvements, but I also want to say a few words about the challenges that remain if Head Start is to live up to its potential.

I would just like to mention, too, that those of us on the Labor-Health Appropriations Subcommittee have been working to encourage many of these needed changes and clarifications in the Head Start statute, and we're gratified to see them in H.R. 4250.

For example, allocating expansion funds for quality improvement is a priority we have been advocating for a number of years now. H.R. 4250 clarifies that at least 25 percent of any expansion funds must be used for quality improvement. It also requires the upgrading of qualifications for Head Start staff.

This bill breaks new ground by authorizing a new component of Head Start focused on children from infancy to 3 years old, which are vital developmental years.

I am also pleased to see that H.R. 4250 encourages full day, full year Head Start programs; this option is crucial for many working parents, and a boon to the children as well.

And this legislation moves us toward greater collaboration between Head Start and other State and Federal services for disadvantaged children and their families. I think we need to go much further in this area, however, and I look forward to working with the administration and others on greater service coordination and consolidation.

Finally, a word about what it will take to make the good intentions embodied in this bill a reality. Oversight and evaluation are absolutely necessary if any of the rest of the new Head Start structure is to work. The Secretary of HHS still has an enormous task before her. She still has to establish the quality standards and set up effective monitoring of grantees adherence to these standards. Those things are required in this bill, but their success rests on HHS' energetic and inventive implementation of what we pass today. Our children deserve nothing less, and I am eager to work with Secretary Shalala to see that Head Start achieves its estimable potential.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT], a member of the committee.

Mr. BARRETT of Nebraska. Mr. Speaker, I rise in reluctant support of H.R. 4250 because while the bill contains many improvements to the Head Start, Community Services Block Grant, and the Low-Income Home Energy Assistance Programs, it also contains an expansion of the Head Start Program that—if gone unchecked—

could imperil the past and future success of Head Start on the sword of overzealous expansion.

H.R. 4250 would expand Head Start to children from 0 to 3 years of age, commonly referred to as the 0 to 3 initiative, by setting aside, in the first year of the expansion, 3 percent of Head Start funds, eventually rising to 5 percent of Head Start funds.

If we just look at current appropriations, $165 million a year could be siphoned from current programs to fund this untested and unstudied 0 to 3 initiative.

During Education and Labor Committee consideration, I offered a common sense amendment to create an Advisory Committee to study this initiative for 1 year, so we could have full knowledge of the scope, structure, funding, standards, implementation, and other issues that will affect this initiative. Unfortunately, my amendment was defeated.

Mr. Speaker, no one in the administration or in Congress has any idea the effect this initiative could have on current Head Start Programs.

In fact, the report issued by Secretary Shalala's Advisory Committee on Head Start stated: "Some Advisory Committee members believe that further study is needed to explore ways of serving additional families with children under age 3, prior to launching an initiative."

As well, the National Head Start Association and the National Black Child Development Institute also expressed concerns with the 0 to 3 initiative in H.R. 4250 because of the possible detrimental impact on current Head Start Programs.

I've met with Head Start teachers, administrators, parents, and children and I've been greatly impressed with the commitment and involvement of the community in these programs, and with the progress they've made in getting children ready to learn.

However, I fear that including the 0 to 3 initiative in such a helter skelter approach may cause irreparable harm to these efforts.

But, caution and deliberation have been thrown to the wind on the 0 to 3 initiative, because many believe we must expand for expansion's sake.

So to address my concerns, I'll be writing to the GAO [General Accounting Office] to request a study of the impact of the 0 to 3 initiative on current Head Start Programs. I urge my colleagues to join with me in requesting this study.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 0 to 3 is not a new program. It has been out for a long time and has been studied extensively.

Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise to support H.R. 4250, the Head Start, LIHEAP, and Community Services Block Grant reauthorization.

In a recent series of forums I held in my home district in Washington State, we focused on the importance of early intervention programs to the prevention of violence. We must go back to the roots of human behavior and support our families.

After all, by giving parents opportunities to increase their knowledge and understanding of basic child development and applying that knowledge to how they discipline their children, to improve their literacy skills, and to share experiences with other parents, we are acknowledging that parents are the first and best teachers of children.

Therefore, I am particularly delighted, Mr. Speaker, that the administration has placed a particular priority to the birth to 3 years, as has the committee, and I would like to thank my colleagues and Chairman MARTINEZ for including my provisions from H.R. 4270 in the final version of the legislation. There is nothing more important to our national security than how we educate our children. This is a good start.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to another member of the committee, the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I rise in support of H.R. 4250 and address my remarks to title IV of the bill, the Family Resource and Support Act, which was developed jointly by Select Education and Civil Rights Subcommittee Chairman MAJOR OWENS and me.

The Family Resource and Support Act breaks the tradition in Congress of creating separate programs for the disabled and the non-disabled. Instead, this program creates a single approach to statewide systems change and coordination of existing resources that can help all families—including families of children that are disabled.

Since all families need many of the same basic supports—community services information, help with day care, family and parental support, and training—it makes sense just to have one system that helps all kinds of families. And for those families of children with disabilities or other special circumstances, the communitywide planning process will help identify and develop approaches to meet their unique needs.

It is also important to note that we have maintained the competitive nature of this program instead of transforming it to a formula grant, and that we maintained a more realistic authorization level of $30 million instead of the Senate's excessive figure of $75 million.

I should point out that I would support a greater degree of program consolidation than we achieved in this bipartisan proposal, and I hope that we will consider more consolidations during the conference process.

I urge my colleagues to support this bipartisan approach to helping all families. I would like to express my appreciation to Subcommittee Chairman OWENS for working with me to develop the Family Resource and Support Act.

Mr. MARTINEZ. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power of the full Committee on Energy and Commerce.

□ 1320

Mr. SHARP. Mr. Speaker, I particularly want to thank the gentleman from California [Mr. MARTINEZ] and the gentleman from Pennsylvania [Mr. GOODLING] for their effective work on this legislation and particularly address the LIHEAP or the Low Income Home Energy Assistance Program which is being reauthorized here, has strong bipartisan support and with very good reason.

There is a critical need out there in the country for us to continue this program. And indeed, as we look for welfare reform, there are many important changes that have occurred in this program, as it is run in many States, from which we can learn and benefit.

This is ahead of the curve in terms of welfare reform in many of our States, because it seeks to bring in additional private and sometimes public resources to meet the need. It seeks to help the individual recipient better take care of their own energy needs and to pay as much of their bill as they can.

I think it is headed in exactly the right direction. Mr. Speaker, we simply cannot at this point further cut back a program that has been dramatically cut back, as some have advocated that we do. The need continues to be great. In my written statement to be a part of the RECORD I have outlined statistically what has happened to people on the energy bills, and we continue to only meet about 23 percent of the need in this country.

So in this time of budgetary restraint, when we all know we have to be careful, nonetheless, Mr. Speaker, we should not do further damage to this program.

Mr. Speaker, I rise in support of the bill.

It is a testament to the effectiveness of this program that we are able to bring this bill to the floor under suspension of the rules. These programs really work and as a consequence there is little controversy in the Congress.

LIHEAP has been an effective program, but I think the committee has made some changes that will make it even more so.

Of equal concern with the issues before us in the reauthorization is the level of funding for LIHEAP. The administration budget request for fiscal year 1995 suggests cutting this program in half. I would hope that the House will not accept this suggestion.

It is surprising that this program, of all programs, should be subject to a proposed budget cut. The Congress and the administration

are beginning to address the difficult subject of welfare reform and discuss new principles for public assistance programs. It seems to me that LIHEAP is a model program for the new way of doing things.

The program encourages more responsible behavior on the part of recipients, encouraging them to pay more, not less, of their energy bills. It leverages private and other resources. It helps low-income citizens gain control of their energy bills through weatherization, energy efficiency, and energy education. It seems to be what we should be doing more of and not less of. LIHEAP is welfare already reformed.

If there were fewer among us who were in need—if the cost of home energy use were declining—if winters were warmer—if summers were cooler—if the old, the disabled, the needy children were less vulnerable—if all of those who need this program had been helped and now no longer needed it, then perhaps this cut could be justified. None of these things is the case.

From a high of over $2.1 billion in 1985 LIHEAP funding has dwindled to less than $1.5 billion last year, and yet:

More Americans live below the poverty line now than at any time since the early sixties.

LIHEAP recipients are among the poorest Americans. Last year over two-thirds of recipients had incomes below $8,000.

The cost of residential energy use has increased steadily and is projected by the Department of Energy to continue to increase. In 1973, the average price for home energy was $7.88/mmbtu. In 1979, it was $11.46. In 1992, it was $12.33.

Last year this program reached only 23 percent of those who were eligible.

As a result of previous cuts in the program fewer and fewer recipients are receiving smaller and smaller benefits. In 1985, 6.8 million households received an average benefit of $242. In 1993, 5.2 million households received an average benefit of $215.

The need for this program is greater now than it has ever been.

To those who would say that we can decrease the need for the program by concentrating resources on such approaches as weatherization, efficiency improvements and energy education, I would say, "I agree." But those are long-range strategies and may not be of much comfort in the face of the pressing need of people who are having to make choices between food or heat. In fact, I am afraid that the funding cut in the administration budget would have the opposite effect from that intended.

If States are forced to make choices between direct assistance needs and more long-range program elements like weatherization, I am afraid they will be forced to eliminate the long-range programs.

The cut envisioned in the budget also has the perverse effect of reducing the amount of money available for weatherization. The Weatherization Assistance Program is given an increase in the DOE budget request of about $30 million. About 10 percent of LIHEAP funding goes to weatherization, the cut from $1.475 billion to $730 million would result in a cut in weatherization funding that is at least $40 million greater than the increase in the direct budget for the Weatherization Assistance Program.

Some would say that we can cut this program and make special allocations in the event of an emergency. This would fundamentally alter the nature of this program. LIHEAP is not a heating assistance program but it does more—it is a home energy assistance program.

Loss of electric service to a rural low-income household often means loss of water, since many rural people pump water from wells with electricity. This loss of water and the basic sanitation that goes with it is just as much an emergency as a cold wave. Loss of refrigeration in hot weather is a health emergency.

A contingency fund for emergencies is a good idea, but it must not come at the cost of the basic program. Congress should help people in emergencies, but for the people dependent on this program, the emergency is current, pressing, and daily.

I support the efforts to redirect the program and make it more effective which are contained in H.R. 4250:

Targeting benefits towards those with higher energy burden;

Conforming weatherization regulations to DOE weatherization rules;

Creation of a permanent contingency fund;

Creating a separate account for leveraging funds;

I urge you to support this program by voting for this bill and by working to assure that sufficient funds are appropriate for LIHEAP.

I wish to thank the gentleman from California, Mr. MARTINEZ. He, along with the chairman of the Education and Labor Committee, Mr. FORD, and the ranking minority members of both the full committee, Mr. WILLIAM GOODLING and the subcommittee, Ms. SUSAN MOLINARI have made the development of this bill a pleasure. I would extend the same thanks to the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the ranking member, Mr. MOORHEAD, as well as the ranking member of the Energy and Power Subcommittee, Mr. BILIRAKIS, where we have joint jurisdiction over the Low Income Home Energy Assistance Program, which is authorized as title III of this bill.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], another member of the committee.

Mr. GUNDERSON. Mr. Speaker, I commend the chairman of the House Education and Labor Committee and the chairman of the Subcommittee on Human Resources, in addition to Mr. GOODLING and Ms. MOLINARI in bringing a bill to the floor that greatly enhances the Head Start Program and will enable both urban and rural areas to participate in various community service programs.

This Congress, more so than any other Congress in recent history, will be remembered for its education agenda. The passage of the Head Start bill is another symbol of the commitment that the Education Committees in both Chambers and the full Congress have demonstrated toward revitalizing our education system. Last year, Mr. GOODLING sponsored and I cosponsored the Head Start Quality Improvement Act. Many of the concepts included in that legislation, such as the general performance measures for all Head Start grantees, have been included in the bill before us today. The 1994 Head Start legislation also includes an important initiative for infants and toddlers and incorporates the reauthorization of the Comprehensive Child Development Centers [CCDC] Act. Western Wisconsin has been one of the pilot projects established under CCDC. The Wisconsin program, known as Full Circle, is run through the West Cap Community Action Agency in Glenwood City. The Full Circle project has provided child and family support services to many families in the northern part of my district. Earlier this year, a young woman, a single mother, who participated in Full Circle stopped by my office and with tears in her eyes said how she was pursuing a postsecondary education at night while her daughter was being cared for through services provided by Full Circle.

A key program authorized through the Community Services Block Grant is National Youth Sports [NYSP]. This initiative has been very effective in western Wisconsin. Both the University of Wisconsin-La Crosse and the University of Wisconsin-Eau Claire participate in NYSP. Last summer, UW-La Crosse and UW-Eau Claire had over 800 NYSP participants. It is especially interesting to note for 1993, UW-Eau Claire had originally projected that 320 young people would participate in the summer program. However, the actual number was 562.

The last few summers, I have attended the National Youth Sports Programs at UW-La Crosse and UW-Eau Claire. NYSP exposes young people, who come from economically disadvantaged backgrounds, to the atmosphere of a college campus by not only organizing comprehensive sports activities, but also including education programs, preventive health initiatives including free medical examinations. Although President Clinton's CSBG proposal did not include NYSP, the House has understood the importance of this initiative and has included it as part of the 1994 reauthorization.

I urge my colleagues to enthusiastically support the reauthorization of Head Start and CSBG.

Mr. MARTINEZ. Mr. Speaker, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. MINK], a member of the committee.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in strong support of H.R. 4250 which reauthorizes three very important programs to address the needs of the disadvantaged and low-income in our communities—the Low Income Housing Energy Assistance Program, the Community Services Block Grant, and Head Start.

There are few of us remaining in the Congress who remember the origins of these programs. For me, that day almost 30 years ago when we first passed Head Start as part of Lyndon Johnson's War on Poverty is still one of the most significant of my legislative career. With the establishment of Head Start we had finally recognized that a long-term, early intervention program was the best way to give children in poverty a fighting chance.

Over 13 million children and their families all across the country have benefited from Head Start. For parents it meant their child would receive at least one hot meal a day, reassurance that their child was being taken care for at least a half-day while they were at work, for children it meant a chance to actually graduate from high school, or go on to post-secondary education, to stay out of a special education class, or advance to the next grade level.

The legacy of Head Start lives on today as one of the most successful early childhood education programs in the country, providing education, health, and social services for needy children and their families.

Both the Congress and the administration have recognized the success of Head Start and with strong bipartisan support we have been able to significantly increase the program over the last decade.

The $4 billion proposed in the President's budget signifies a four-fold increase in the program since 1985. It is estimated that at this level 840,000 children will be served, an increase of almost 170,000 participants over 1993 levels.

Even with these increases, however, the current program still only serves about 30 percent of the eligible 3- and 4-year-old children in our Nation, and most programs provide services only for a half-day during the school year.

According to a 1991–92 study only 6.5 percent of Head Start children were served for 8 hours a day. Of these children, half were served fewer than 36 weeks per year. And fewer than 1 percent of children in Head Start programs are served in programs operating both 8 hours or more per day and more than 48 weeks per year.

Mr. Speaker, H.R. 4250 includes an amendment I authored to encourage communities to consider the option of full-day, full-year services and which requires the Department of Health and Human Services to complete a study to assess the need of full-day, year-round Head Start services in low-income communities.

In a survey conducted by the National Head Start Association, parents most often listed the need for extended hours and day of operation as an area that needed improvement. And research has shown that unemployed parents would more readily seek work if they had access to programs such as full-day, full-year Head Start.

Particularly in light of this administration's commitment to helping families on welfare move into the work force and toward self-sufficiency it is particularly important that we move toward the expansion of Head Start to a full-day, full-year program.

As we move forward into the 21st century Head Start must change as the needs of children and families in poverty have changed dramatically. Just yesterday the headlines in the papers stated that 4 million children in our Nation live in poverty—that is one out of every four children in the United States growing up in areas where drugs, violence, and unemployment are more prevalent than safe schools, high school diplomas, and good jobs.

H.R. 4250 seeks to provide the leadership and direction that will help Head Start rise to meet the challenges facing families in poverty and appropriately deal with the large expansion of the program proposed by the Clinton administration.

In addition to increased emphasis on full-day, full-year programs, H.R. 4250 establishes a new program to serve children up to 3 years old, creates a new fellowship program to improve employment opportunities in Head Start, and continues emphasis on quality improvement.

Mr. Speaker, I ask my colleagues to vote for H.R. 4250 and the future of our Nation's children.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], another member of the committee.

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding time to me.

I object to this bill being brought out here on the Suspension Calendar. I intend to call for a vote.

The reason I object, Mr. Speaker, is this bill has the language "such sums as are necessary."

Mr. Speaker, that is the magic language of entitlement spending. That is the language that puts the budget of the people of this country and their government on automatic pilot. There is no way that we should allow the reauthorization or authorization of any program that includes that language without a vote by the Members of Congress. I intend to have that vote.

That is not to mention, Mr. Speaker, that even though the goals of Head Start are laudable and goals I myself can enthusiastically endorse, the frank fact of the matter is, there is scant little evidence that Head Start has worked in the lives of children. And that little evidence we have we obtained only from people who directly benefit by running the program.

We find ourselves time and time again, Mr. Speaker, leading with our heart and leaving our brains out of the matter. The fact of the matter is, Congress has an open hostility to science and knowledge and has a compassionate acceptance of folklore, especially the folklore of big government.

For these reasons, I need to inform the body that I oppose the bill. I oppose the bill. I oppose bringing it out here in this manner, and I will have a vote. And, of course, I am fully aware of the fact that the vast majority of this body will make themselves feel good and bleed their hearts once again with the American people's money, even though they have no evidence they do any good.

□ 1330

Mr. MARTINEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, I am pleased to rise in support of H.R. 4250. The programs included in this bill provide critical support to a broad range of Americans. In an era when we are attempting to wage war on such pressing problems as substance abuse, poverty, teen pregnancy, and violence, these funds are truly the smartest weapons at our disposal.

The expansion of Head Start, for example, will serve greater numbers of infants and toddlers, and will help young mothers who need quality day care in order to join the work force.

Similarly, the Community Service Block Grant will expand the capabilities of the Community Action Agencies. Mr. Speaker, there are several excellent Community Action Agencies in my district in Virginia, all of which enjoy broad-based community support because of their effectiveness. These agencies play a vital role addressing emergencies and other needs which traditional human service programs do not have the jurisdiction or the resources to meet.

Community Action Agencies have been proven to be effective laboratories for the creation of innovative and cost-effective programs to meet human needs. Over the years, they have sponsored such programs as the Demonstration Partnership Program, from which the Minority Male Initiative was developed. This program targets the needs of young men to help them steer away from drugs, crime, and hopelessness, and therefore, just like Head Start, addresses the crime problem when it can best be effectively addressed, and that is, before the crime occurs.

Mr. Speaker, I would like to applaud the leadership of the chairman, the gentleman from Michigan [Mr. FORD] and the ranking member, the gentleman from Pennsylvania [Mr. GOODLING], for their bipartisan leadership on this bill, and particularly the gentleman from California [Mr. MARTINEZ] for bringing this important measure to us. This bill has received broad support in committee, and I hope that the Members of the House will continue to support this bill through the appropriations process.

Mr. MARTINEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I want to congratulate the chairman of the Subcommittee on Human Resources of the Committee on Education, the gentleman from California [Mr. MARTINEZ] for his rapid movement of this very important bill through the process.

We are reauthorizing a program which is only a tiny part of what it was when it first began under Lyndon Johnson. Lyndon Johnson and the Great Society programs were on target. The program probably, within the Great Society programs, which was most on target was the Community Action Program. The Community Action Program does not exist at the same magnitude as before, not because it was not effective, but because it was killed by racism and killed by meanspiritedness, people who did not understand that empowering poor people was the best answer to most of our pressing social problems in the inner cities in particular, but also in many rural communities.

The philosophy of the community action programs was to reach out and pull the so-called clients, or the people who were the recipients of the funds, into a process by which they would also help to make the programs go. They also had attachments and liaisons with all of the big programs that did not have community action components, so the regular education program was made to function better, the regular housing programs were made to function better, and it was a great success.

However, it empowered poor people, and therefore, it was smothered, it was wiped out, it was butchered, and we only have a tiny figment of what once existed, but it still continues. Those small community action programs that exist out there now take small amounts of money and they reproduce, they replicate, they do all kinds of things to garner tremendous amounts of additional funds. They bring in far more than we invest in them by linking with private sources, with other public sources, and they do a job that very few other agencies of government have been able to replicate.

Lyndon Johnson was on target. The kinds of things we are doing now with our community banks, our national service program, a number of things that have been initiated by the present administration are really a reinvention of components of the old Community Action Program. I hope that the administration will have a new wisdom and understand that it is replicating what once existed, and our next reauthorization of this program would have the kind of support we need to recognize and expand the Community Action Programs as they should be.

LIHEAP is continued without a cut. It was kind of disappointing and shocking to hear cuts being proposed in a program that provides heat, something very concrete, after the kind of winter we have had. In our big cities we are not the recipients of $8 billion, similar to what was given to California as a result of the earthquake. We are not the recipients of $6 billion, similar to what was given to the Midwest flood areas, or the $6 billion which went to the hurricane area in Florida. Big cities do not get anything.

To cut LIHEAP at a time when the national disaster of ice and snow and prolonged cold existed would have been an outrage. We do not cut LIHEAP in this program, and we look for the support of the Senate and the administration in this respect.

Mr. Speaker, I welcome the opportunity to reauthorize the Community Services Block Grant [CSBG]. As many of you know, this is a program near and dear to my heart. Prior to holding elective office, I was the commissioner of the New York City Community Development Agency.

In 1992, 36.9 million Americans were living below the poverty level, the highest number since 1962. It is pitiful that three decades after President Johnson declared war on poverty, so many Americans continue to suffer in a country of such great wealth.

The CSBG program is the lifeline for many of these Americans living in poverty. While myriad public programs often perform outreach activities in the hope of reaching underserved populations in addition to their larger client bases, the projects which the CSBG program funds focus their attention on underserved populations and thus represent what outreach is all about. They define the standard for outreach by which all other public projects should be measured.

The Community Action Agencies [CAA's] funded by the CSBG program serve the poorest of America's neighborhoods. They stretch their fingers into communities, enabling public and private funds to come together and actually reach the underserved populations for which they were intended.

Moreover, CAA's are perfect vehicles for the items on President Clinton's agenda which are aimed at improving communities and fostering grassroots development. A CAA is one of the best places to work for a young adult who is part of the new National and Community Service Corps. A CAA is most capable of operating a Community Development Bank that is truly dedicated to community development. And a CAA can implement crime prevention programs and provide drug treatment services in a way that only an organization with a deep understanding of its community can.

The Head Start Program serves over 700,000 low-income children between the ages of 3 and 4. It helps the most disadvantaged children acquire critical developmental skills which are necessary for their success in public school. The program also emphasizes enhancing parental skills, and strengthening the family unit. By building the self-esteem of the children and the nurturing skills of the parents, Head Start gives disadvantaged families the opportunity to escape from the harsh realities of a world of poverty filled with drugs and violence. Today, we are not just reauthorizing a community-based program; we are reaffirming our commitment to ensuring that poor children have the necessary skills to succeed in school and life.

CSBG funds are used to prevent homelessness, provide nutrition and emergency services, and through the National Youth Sports Program, help to reduce the numbers of inner-city youth from joining violent gangs in urban communities. As the only Federal program that is specifically mandated to provide a range of services and activities that give low-income people a hand up from poverty instead of a hand out, the CSBG program empowers low-income people.

LIHEAP is another program which serves the most vulnerable of our populations—the elderly, working-poor families, and individuals with disabilities. Almost 6 million households receive assistance under this program. But the numbers of families assisted under this program are not important; what's important is that LIHEAP prevents poor families from freezing to death, being evicted, or in the winter months choosing between heat and food. That's why I was shocked to learn that the President intended to cut the program by almost 50 percent. Low-income families simply cannot afford to bear the burden of these types of budget cuts.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. MACHTLEY], sponsor of the House Concurrent Resolution 202, a sense of Congress that we should continue LIHEAP at the same level and not cut it.

Mr. MACHTLEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today as a strong supporter of H.R. 4250. I applaud this committee for the full funding of the Low Income Home Energy Assistance Program, better known as LIHEAP. I know that our former colleague, Silvio Conte, is at the Pearly Gates in his green blazer, smiling down at us today for this bill, for he was a champion of the LIHEAP program.

I am particularly pleased that this legislation incorporates the language from House Concurrent Resolution 202, introduced by myself and the gentleman from Massachusetts [Mr. MARKEY].

I would like to take this opportunity to thank the committee for including this provision, which would, among other things, express the sense of Congress that the fiscal year 1995 appropriations made for LIHEAP will be expended, and that expenditures in fiscal year 1996 for LIHEAP should ensure the same or a better level of services.

For many of our citizens in this country, this past winter has been the worst in living memory for the disabled, the elderly, the poor, and all those others who depend on LIHEAP have been a struggle to maintain dignity, and for many, a battle to stay alive.

LIHEAP serves a critical purpose. It helps prevent the poorest of the poor in

the United States of America from freezing to death. From the earliest days of our colony, we gathered together, we pooled our resources, to ensure that all had heat. In fiscal year 1992, the average payment to the 6.2 million households receiving LIHEAP was only $190, not a lot for this country. It is worthy of remembering that the majority of LIHEAP recipients have annual family incomes of under $7,000, and devote 65 percent of their income to rent and utilities.

It is true we must deal with an enormous budget deficit that requires spending restraint, but we surely can find a better approach than by forcing people to choose between feeding their children and keeping their homes warm. The recent cold weather conditions have had unintended effects of demonstrating how important LIHEAP is to the American public.

I recently received a letter from a constituent, Mr. Everett Carlisle, of Providence, RI. He writes,

> The home energy assistance is very important to me and all other senior citizens who are on low fixed incomes of a few hundred dollars a month. We are living below the poverty level. We must have full funding of LIHEAP or we will be unable to maintain our current lifestyle.

I applaud this committee and urge all to vote for its passage.

Mr. MARTINEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON], our chief deputy whip.

Mr. RICHARDSON. Mr. Speaker, first of all I want to congratulate the chairman for this outstanding bill. Truly, sometimes we come to this floor and mince words about legislation. This is good legislation, and everyone agrees it is good. It is bipartisan, and in that connection, the gentleman from Pennsylvania [Mr. GOODLING] and some of the Republicans have done equally as well in supporting and making this program even better.

Besides it being strongly bipartisan, I would like to state that in this bill there are some very good initiatives that tighten some of the procedures, the technical procedures, for Head Start. Oversight in all the technical programs is strengthened. In particular, native American programs, in my judgment, are dramatically improved.

If we look at the specifics of this bill, we now have the ability for native Americans to purchase facilities for themselves. It serves not just native Americans on the reservation, but off the reservation. It deals with some of the upper income children.

□ 1340

It deals with native American children that perhaps were able to get out of the program because of some overincome statistic but in reality because of the needs on the reservation, this program covers it.

Mr. Speaker, local control is very important. Local boards control a lot of these programs. This is a Community Service Block Grant Program. For instance, there can be assistance to a family to get some of the funds for the Low Income Home Energy Assistance Program; food stamps locally determined.

This program, Mr. Speaker, Head Start, it works. The program over the years has proven continually to underscore the values of family, of hard work, and education as well as a vision of government which creates opportunity for its children and communities. Low income children and families today face enormous challenges. They are struggling to survive in neighborhoods plagued by violence, drugs, alcoholism, and lack of opportunity. Since we have reauthorized this bill, the number of children unfortunately living in poverty has increased drastically. So should our commitment to help some of these Head Start programs.

Once again, Mr. Speaker, I applaud the committee on their efforts to be particularly sensitive to this very outstanding program that works, that has broad support, that has now been improved even more. We are making an investment in young people, in children, and in our communities by immediately reauthorizing this bill, by immediately reauthorizing the Head Start, Low Income Home Energy Assistance Program and the Community Service Block Grant Program, all three very good bipartisan programs.

Mr. Speaker, again I commend the chairman and I commend the minority for their outstanding work.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 4250, Head Start, community services block grants, and Low-Income Home Energy Assistance Program reauthorizations. I would like to commend the gentleman from California [Mr. MARTINEZ] for introducing this important measure and the gentleman from Pennsylvania [Mr. GOODLING], the committee's distinguished ranking member and the gentleman from Rhode Island [Mr. MACHTLEY] for their support.

H.R. 4250 expands parental involvement, extends Head Start services to families with infants and toddlers, reserves funds for teachers' salaries and facility upgrades, and requires Department of Health and Human Services [HHS] to consider a grant recipient's past performance when allocating funds.

This important measure reauthorizes Head Start, the Community Service Block Grants Program, and the Low-Income Home Energy Assistance Program for 4 years. More specifically, the bill authorizes $525 million for Head Start, $525 million for the Community Services Block Grants Program, and $2 million for the Low-Income Home Energy Assistance Program for fiscal year 1995.

More specifically, this measure enhances parental involvement and directs centers to offer family literacy services, parental skills training, and substance abuse counseling, emphasizes coordination with other programs and elementary schools, and consolidates and expands two small Federal programs for families with infants and toddlers, allowing these families to participate in Head Start.

Moreover, H.R. 4250, authorizes $30 million to supplement the Existing Family Resources Centers Program which helps States provide funding to local centers that offer a flexible and coordinated array of services and information to support families in need of parent training, temporary child care, and information about other available services.

Mr. Speaker, our Nation's children are our most precious resource. Head Start has enjoyed bipartisan support since its inception.

Accordingly, I urge my colleagues to continue to support Head Start and these other important programs by voting in favor of H.R. 4250.

Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. GOODLING. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, I just want to rise to take full blame, or full credit, for the words "such sums." Had I come to the floor of the House with this legislation with what was proposed, I am sure I would have been run out, in fact I would not have even come with it myself, because what was proposed was to move from an appropriation of $3.3 billion to an authorization of $7.7 billion. I will now allow the Committee on Appropriations to make that decision, realizing that they will use very good judgment and will not get us near $7.7 billion this particular year.

Mr. Speaker, if we are looking for a good CSBG program and we want to see one that operates very, very well in a community, I invite my colleagues to come to York, PA.

Mr. Speaker, in closing, I would merely say to all Head Start programs throughout this country, the theme is "excellence, quality or stop." And I want to make sure they understand that. It is no longer a case of you can keep your grant forever, no matter how well or how poorly you do. You will keep your grant if you do well, if you improve the quality of the program, because it is children that we are trying to help and their parents and in order to do that, we must insist on excellence.

Mr. Speaker, I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, I would just like to make something very clear. My

substitute language supports the administration's proposal in making local agencies more effective, better representative of the community to be served and more accountable to the States and the Federal Government. The substitute language strongly supports the administration's intentions to increase funding for training and technical assistance to CSBG recipient agencies and organizations. In addition, my language ensures public comment on a State's proposed changes to its CSBG plan as well as requiring States to certify that funds are being used in accordance with the act at both the State and local levels. Finally, the substitute language also reflects my opposition to the administration's proposed $100 million reduction in authorization by setting an authorization at $525 million, a slight increase from the current level of $500 million.

Mr. Speaker, my substitute language also supports in concept the administration's proposal for the consolidation of the current discretionary programs into a single program. Rather than create a separate authorization for the CIP, I would retain the current set-aside language. At the request of Mr. FORD, migrant workers, and the gentleman from Kentucky, Mr. BAESLER, rural communities, the substitute language does ensure that some current CSBG discretionary activities would be eligible to compete for CIP funds.

My amendment would also place less restrictions on the community development activities with the community initiative program recognizing that only local communities can prescribe the type of community development each community needs.

Mr. Speaker, I urge an "aye" vote.

Mr. FORD of Michigan. Mr. Speaker, 29 years ago, within the first few months of my first term as a Member of Congress, President Lyndon Johnson spoke these words at a Rose Garden ceremony announcing Project Head Start:

> Today we are able to announce that we will have open, and we believe operating this summer, coast-to-coast, some 2,000 child development centers serving as many as possibly a half million children.
>
> This means that nearly half the preschool children of poverty will get a head start on their future. These children will receive preschool training to prepare them for regular school in September. They will get medical and dental attention that they badly need, and parents will receive counseling on improving the home environment.
>
> This is a most remarkable accomplishment and it has been done in a very short time. It would not be possible except for the willing and the enthusiastic cooperation of Americans throughout the country.
>
> Five and six year old children are inheritors of poverty's curse and not its creators. Unless we act these children will pass it on the next generation, like a family birthmark.

Project Head Start was a nationwide effort launched in the summer of 1965 to assist preschool children from poor families to enter kindergarten or first grade. The project offered health services, social services, and educational services. Local Head Start programs were run by colleges, schools, local government, or private nonprofit organizations.

The original Head Start Summer Program enrolled more than five times as many children—561,359—than the Office of Economic Opportunity had originally anticipated, and the program became one of the most popular antipoverty measures with the Congress.

In the 29 years since its inception, Head Start has provided hope and support to more than 13 million low-income families. It has become our country's premier child care model, offering health, nutrition, education, mental and social services to poor children and their families in each and every county in the Nation. It has grown from a $350 million summer initiative to a year-round program funded at $3.3 billion serving approximately 750,000 children and their families. The wisdom in which Head Start was conceived enables this program to endure. It continues to enjoy broad bipartisan support and is just as viable today as it was some 30 years ago.

Yet, the world of Head Start today is drastically different than it was 30 years ago. Children are faced with challenges and influences which affect their development at an earlier age. Families suffering from homelessness, substance abuse, unemployment, and lack of education and training hold little promise for children born into poverty through no fault of their own.

Head Start today, as it was 30 years ago, is a beacon of hope for children in poverty and their families. Community-based, community-governed, community- and family-responsive Head Start programs afford comprehensive services to children and their low-income families in the place of futility.

H.R. 4250, the measure before us today, builds upon the successes of Head Start, responds to its critics, and extends the Head Start Program for another 4 years. The bill incorporates improvements to respond to the changing needs of children and their families as recommended by Secretary Shalala's Advisory Committee on Head Start Quality and Expansion. I would like to highlight several of these improvements.

For the first time, Head Start programs will be required to coordinate with local schools. The provisions complement similar language incorporated into H.R. 6, a bill to reauthorize the Elementary and Secondary Education Act programs, approved by the House of Representatives on March 24. This change is intended to encourage greater communication between Head Start programs and schools on behalf of the children and families they serve, and to help minimize disruptive breaks in the continuity of services which can threaten political gains made by children and their families.

The bill retains the 1990 statutory requirement that 25 percent of all Head Start funds be used to improve the quality of existing programs, such as ensuring sufficient staffing and ensuring adequate compensation of Head Start staff. I would like to note that this set-aside is a floor, not a ceiling. If the Secretary determines additional funds are needed to improve the quality of programs, she may designate more than 25 percent for this activity. Child care workers remain one of the lowest paid professions in our Nation's workforce. Most child care workers, including Head Start workers, must support themselves and their families on meager wages, with no health or retirement benefits. Head Start should begin to set the tone for the Nation on the pay and benefits of child care workers.

The legislation establishes a new initiative to extend Head Start type services to children from birth to 3 and their families. Beginning in fiscal year 1995, 3 percent will be set-aside for this initiative, with 5 percent set-aside by 1998. This initiative responds to the alarming needs of poor families with very young children. In 1990, 53 percent of mothers returned to work within 1 year of a child's birth, compared with under 20 percent when Head Start was first conceived. Of the 12 million children under age 3 today, more than 5 million are in the care of other adults while their parents work. Moreover, 25 percent of children aged 0 through 3 live in poverty. For families living in poverty, the lack of prenatal and child health care, human services and social support exaggerates the array of difficulties faced by many millions of families with inadequate child care. We know from numerous studies that the earlier a child is reached with comprehensive support the greater prospect that child has of flourishing in later life.

The measure under consideration does more than reauthorize Head Start—it also renews our commitment to a number of worthy programs addressing the needs of individuals living in poverty.

H.R. 4250 reauthorizes the Community Services Block Grant Act through fiscal year 1998. Since its creation in 1981 as a continuation of work begun in the Office of Economic Opportunity, CSBG funds have been used to leverage other resources to operate programs addressing the problems caused by poverty and providing advocacy services for the poor.

H.R. 4250 also continues through fiscal year 1999, the Low-Income Home Energy Assistance Program [LIHEAP]—an initiative of particular importance to low-income individuals who find their lives threatened by harsh weather. Recent budget cuts have caused a fall-off in the number of households served to the point where today only one-quarter of the eligible households are able to participate in the program. The action we take today in intended to sustain the program and provide a suitable response to critical life-threatening situations which have far too often resulted in injury or death.

H.R. 4250 represents a significant effort to maintain bipartisan support for social service programs which answer critical needs of American families and communities. We have come a long way from the day in 1966 when the House of Representatives first voted to specifically set aside funding for Head Start as part of the Economic Opportunity Act. On that day, only 15 out of 120 of our Republican colleagues joined us in support of the effort.

I am pleased to see this bipartisan effort today. However, I suggest that we will achieve little if we back away from our responsibilities just to find the easiest and most politically expedient way out. I would have preferred a much stronger bill and I know many of my colleagues share that view.

I pledge to do what I can as we enter into conference with our Senate colleagues to see that this effort provides a lasting legacy for Congresses and administrations to come. As but one example, I support efforts to provide Head Start programs with the ability to construct their own facilities while at the same time guaranteeing a decent wage to those involved in the construction effort.

I congratulate Chairman MARTINEZ on his good work and look forward to working with him as well as Mr. GOODLING and Ms. MOLINARI in forging the strongest possible conference agreement on these important human services programs and creating a 21st century Head Start.

Mr. KILDEE. Mr. Speaker, I rise in strong support of H.R. 4250, a bill to reauthorize Head Start, low-income home energy assistance, and community services block grants.

I would like to commend Chairman FORD and Chairman MARTINEZ as well as Mr. GOODLING and Ms. MOLINARI for their work on this bill.

In reauthorizing Head Start, the bill proposes a series of measures that will further strengthen Head Start's quality and effectiveness.

Head Start is a wonderful program, one that has been near my heart for years.

As a former teacher and past chairman of the subcommittee with jurisdiction over Head Start, I believe it is especially important to help children build on the gains they make in Head Start as they proceed through their academic careers.

Mrs. UNSOELD and I added provisions to the elementary and secondary education authorization to ensure that Head Start students experience a smooth transition to elementary school.

H.R. 4250 includes language I proposed to help align the transition programs in both schools and Head Start agencies so that we can create a seamless system of support for our youngest students.

Mr. Speaker, the bill also extends activities authorized under the Low-Income Home Energy Assistance Program [LIHEAP] and the Community Services Block Grant Program.

LIHEAP provides critical services to poor individuals to help them pay energy bills.

Assistance provided under this Act often eliminates the need for low-income individuals to choose between heating and eating.

The community services block grant provides critical services designed to address needs at the local level.

Once again, the Education and Labor Committee has crafted a strong Head Start, LIHEAP, and CSBG reauthorization. H.R. 4250 is an excellent bill to provide services where they are needed most—to the child, in the home, and in the community.

I am pleased to be a cosponsor of this bill and I urge Members to support the legislation.

Ms. SNOWE. Mr. Speaker, I rise today in support of H.R. 4250 , a bill to reauthorize the Low-Income Home Energy Assistance Program [LIHEAP] and the Head Start Program.

For the poor in the north, heat is no less essential than food, clothing, and shelter. Without sufficient funds to pay for heating in the winter, poor families will either freeze or divert scarce funds from food or other subsistence needs to pay for heat. As a result of these terrible dilemmas, less fortunate citizens in cold States like Maine view the approaching winter every year with tremendous anxiety.

LIHEAP was originally established to help alleviate these fears and provide a partial measure of security for low-income families in the winter. Unfortunately, due to repeated cuts, the funding level for LIHEAP since the 1980's has not reflected the real human need for the program.

In fiscal year 1985, LIHEAP received an appropriation of $2.1 billion, but funding for the program steadily declined to $1.35 billion in fiscal year 1993 in unadjusted dollars. If funding for LIHEAP had remained constant since fiscal year 1985 in dollars adjusted for inflation, today's appropriation would have to be about $2.7 billion—far higher than the $1.4 billion actually approved for the fiscal year 1994 heating season.

Perhaps most disturbing about these cuts is the fact that LIHEAP could hardly be called an unnecessary or wasteful program. LIHEAP covers less than 25 percent of the average low-income recipient's residential energy bill. And millions of low-income families get no assistance at all despite meeting the eligibility requirements.

H.R. 4250 seeks to strengthen LIHEAP at a time when it is still wobbling from 8 years of gratuitous cuts. It authorizes $2 billion for the program in fiscal year 1995. Permanent authority in the bill for the President to spend up to $600 million in emergency situations will help the Federal Government respond to severe winters, like the one this year, or energy price spikes. and H.R. 4250 wisely expresses the sense of the Congress that LIHEAP expenditures for fiscal year 1996 should at least equal the fiscal year 1995 appropriation.

H.R. 4250 is also an important bill because of its emphasis on the welfare of children, not only through LIHEAP, but through the Head Start Program as well. Head Start has enjoyed bipartisan support since its inception in 1965. While the challenges facing those living in poverty have become more complex, the program has grown and developed to meet these pressing needs.

Head Start has proven to be one of the most successful preschool and family support programs. More than 13 million children and their families have benefited from the health, education, and social services provided through Head Start.

I support the extension and expansion of Head Start in H.R. 4250. The bill has incorporated the recommendations of the Advisory Committee on Head Start Quality and Expansion that reviewed the Head Start Program. Funds will continue to be set aside for quality improvement activities and grantees must maintain minimum levels of quality. The Health and Human Services Department will create a process to identify underperforming grantees and develop a plan to improve their performance.

Addressing the findings of the recent Carnegie Corp. report on meeting the needs of the Nation's youngest children, this bill creates a new family centered grant program within Head Start to provide low-income families with very young children, from birth to 3 years, the services and support they need to promote healthy development of their children, to help parents fulfill their roles as parents, and to move toward self-sufficiency. It will consolidate programs for infants and toddlers and authorize 3 percent of the total funds for fiscal 1995 for this age group, gradually rising to 5 percent in fiscal 1998.

The bill also requires Head Start to make efforts to coordinate with local education agencies and elementary schools to enable children to maintain the developmental gains achieved in Head Start.

Mr. Speaker, LIHEAP, Head Start, and the people served by these programs need H.R. 4250, and I urge my colleagues to join me in supporting the bill.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the portion of this legislation that would reauthorize the Low Income Home Energy Assistance Program. LIHEAP authorizes funding for State-run programs that provide vital emergency assistance for low-income persons who need help paying their heating and cooling bills.

Although the Energy and Commerce Committee did not mark up the LIHEAP provisions of this bill, the committee retains jurisdiction and will represent its interests at a conference, should the bill be approved by this body.

As the ranking minority member of the Energy and Power Subcommittee of the Energy and Commerce Committee, I would like to express some concerns regarding the LIHEAP reauthorization language in this bill that I would like to see addressed in conference.

First, I have questions about the role of the Secretary of Health and Human Services in the administration of LIHEAP Programs at the State level. One basic principle behind all block grant programs, such as LIHEAP, is that the States should have the maximum amount of discretion to administer these programs in ways that make sense in each locality. We have seen that many States have used this flexibility to create innovative programs that use the limited amount of LIHEAP funds in the most efficient and creative manner.

Although the Education and Labor Committee eliminated a provision proposed by the administration that would have given the Federal bureaucracy the authority to micromanage the States administration of LIHEAP, such a provision is still in the Senate version of the legislation. In Conference, we will work to ensure that this provision is not in the final bill.

Second, the version of the bill before us contains a provision that requires HHS to set goals for the State programs and issue a report on their performance. HHS already has the authority to set goals for LIHEAP Programs and evaluate them in relation to those goals if it so chooses. However, I strongly object to provisions that would mandate the use of limited LIHEAP funds for the expansion of the Federal bureaucracy rather than keeping on the heat and air conditioning of low-income people.

In conclusion, we plan to fully participate in the Conference on LIHEAP to eliminate all provisions that would only serve to increase Federal bureaucratic interference and limit the flexibility of State authorities to direct LIHEAP funds to where they are most needed.

Thank you, Mr. Speaker.

Mr. CUNNINGHAM. Mr. Speaker, as an original cosponsor of the Head Start Quality

Improvement Act—H.R. 1528—introduced by Mr. GOODLING, I am very happy to see many of those recommendations encompassed into this Head Start reauthorization.

I am pleased to see an increase in the recognition of the crucial role parents play in the educational development of their children.

This bill requires programs to actively seek parental participation, and while I would like to see even stronger language regarding parental involvement in Head Start programs, I think the language addressing family literacy and parental skills training takes the right direction. It is important to recognize and establish parents as their children's primary teacher.

As you know, raising the quality of all Head Start Programs throughout the country has long been a concern, and I am pleased to see strengthened program accountability for providing high quality services included in this reauthorization.

The key to a successful Head Start Program is ensuring quality over quantity. We should serve as many eligible children as possible with the highest quality services possible, instead of just striving to serve all eligible children with mediocre or poor services. The quality program improvement provisions will help ensure that quality services will be consistently provided by all Head Start Programs.

This Human Services Act reauthorization is the result of bipartisan negotiations and although I am not supportive of every single element of this bill, I am pleased with the inclusion of many key aspects that enhance the programs. I hope that this bipartisan teamwork will continue and we will see additional improvements in conference.

Ms. MOLINARI. Mr. Speaker, I am glad to be here today to consider, and to have taken part in the development of legislation to authorize the Human Service Act—H.R. 4250—which includes Head Start, LIHEAP, the Community Services Block Grant and several other programs.

As many of you know, Head Start is approaching its 30th anniversary. This program clearly has an impressive history, but it also has a new set of challenges for the future. One of those challenges is to address, in response to recent reports, the disparities in the quality of services provided by Head Start programs and to eliminate the fade-out effect in children once they leave Head Start.

We have aggressively confronted these problems in this bill by including measures to assure greater and more consistent quality, putting poor-performing programs on notice that the status-quo is over and enhancing services to better help parents become full partners in the education of their children. I am pleased to say that these are all ideas that were originally presented in Republican legislation, which I helped to write with Mr. GOODLING and Senator KASSEBAUM.

I am also encouraged to see a renewal for the LIHEAP Program in this legislation. The LIHEAP Program is important to the whole country, especially to the colder States. My State of New York is the largest recipient of LIHEAP funds and would be one of the hardest hit areas by the proposed budget cuts. This renewal of LIHEAP funds sends a strong bipartisan message to the administration about the importance of this program for the whole country and the Congressional desire to maintain the program at its current levels—instead of cutting it in half, as the administration has proposed.

I am also pleased that the CSBG reauthorization includes the renewal of the McKinney Homeless Community Services Program, which the administration had proposed to eliminate. Elimination of this program would have been devastating to New York City, which alone receives $1 million from this important program. The truth is, however, that these measures benefit all areas of our country.

Mr. Speaker, it has been my pleasure to work with Mr. GOODLING, Mr. FORD, and Mr. MARTINEZ to develop this comprehensive bipartisan reauthorization package, and I want to thank them for their leadership on these issues.

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise today to voice my strong support for the Head Start Program. Considering all that is going wrong in our world today, we can look to Head Start as something that's right and as something that works.

Head Start is an investment in the future of America. The program's comprehensive approach—integrating education, health care, social services, and parental involvement—produces real results that enable children from disadvantaged backgrounds to cope and thrive in school and at home. Head Start provides the tools for long-term success.

In recognition of this and despite a tight budget, President Clinton has proposed to increase funding to Head Start in the 1995 budget. He has proposed that Head Start receive $4 billion in fiscal year 1995, a $700 million increase over fiscal year 1994. I support this portion of the President's budget without reservation.

Today, the House will consider the reauthorization of Head Start and other antipoverty programs. The Head Start provisions in the reauthorization bill, H.R. 4250, would mandate continuous improvement of an already good program. The bill would make important changes in Head Start to ensure that these programs are both effective and relevant to today's families.

Especially important are the set-aside provisions in the bill for infants and toddlers. As the father of a 18-month-old son, with another child due in a few weeks, I have witnessed how much learning takes place and how habits are formed early in life. I have no doubts about the beneficial impact that early childhood development services can make in the life of every child.

Today's Head Start students are tomorrow's young adults. Let us give them the chance to be strong participants in our communities.

After quite a few tomorrows, all of us here will be dependent on today's youth for the type of society in which we will then live.

Let us make the best of this opportunity to help our children who are currently at risk—by intervening at the beginning of their lives. Let's do it for them, and for us.

Mr. ARMEY. Mr. Speaker, I rise to oppose the reauthorization of the Head Start Program as currently written. No reliable studies exist to show that Head Start has long-term positive effects, while all the available evidence indicates Head Start's effects wear off within a few years. Removing all spending restraint on the program, as this bill would do, seems an intellectually untenable response to this evidence.

The Education & Labor Committee, on which I sit, has moved with undue haste to reauthorize and expand a program of questionable value. The bill would cast aside the current $8 billion authorization cap and instead authorize "such sums as may be necessary"—legalese for "the sky's the limit." This puts Head Start on the slippery slope to becoming an entitlement, with all the enormous cost problems associated with entitlements.

Head Start's virtually unquestioned positive reputation turns out to be based on exaggerated reports of one study of one 1960's, non-Head Start Program, the Perry Preschool in Ypsilanti, MI. More recent and reliable research suggests Head Start's academic benefits wear off after about 2 years, calling into question the very premise of the program, while its non-academic benefits, meals and vaccinations, duplicate other Federal programs. Thus there would appear to be no need for Head Start. Yet we are greatly expanding it.

A more reasonable policy, it seems to me, is to freeze the authorization at the current level until its value can be scientifically demonstrated. This would still enable Head Start to more than double in size, from the current appropriation of $3 billion up to the authorized $8 billion. Restoring such a generous spending cap would not cut a penny from Head Start, but it would help to protect our intellectual, and fiscal, integrity.

Mr. QUINN. Mr. Speaker, I wish to express my strong support for H.R. 4250, Head Start, Community Services Block Grants, and Low-Income Heat Energy Assistance Program Reauthorizations.

The Low-Income Heat Energy Assistance Program [LIHEAP], which is reauthorized in H.R. 4250, is of particular significance to my district in western New York.

LIHEAP provides fuel assistance to disabled, working poor, and low-income senior citizens—an issue of life or death for many.

Mr. Speaker, in the month of January the average temperature in Buffalo was 17.2 degrees—no day saw a temperature above freezing. In addition to the cold, my constituents had to deal with 35.4 inches of snow in that month alone.

The reliance of millions of people on LIHEAP was highlighted this particularly harsh winter with these unprecedented numbers of record low temperatures and snowfalls.

In February, I received many phone calls from panicked constituents, many of them elderly, who were told that the LIHEAP Program was going to be shut down because it had run out of money.

I worked with officials at the White House and with Governor Cuomo to keep the application process for LIHEAP open when the program was in danger of being closed because funds had run out. I helped pass the emergency earthquake funding bill which included $300 million emergency funding for LIHEAP.

Without these actions, the people of western New York would have literally been left out in the cold.

Mr. Speaker, the threat to the LIHEAP program continues. In its fiscal year 1995 budget request, the administration has recommended cutting the program by 50 percent. That 50 percent would prohibit families and seniors from my district from properly heating their homes. I will certainly work during the appropriations process to ensure that deep cuts are not made in LIHEAP.

I would ask my colleagues to join me in support of H.R. 4250 which authorizes $2 billion for LIHEAP in fiscal year 1995 and such sums in fiscal year 1997–99. I think most importantly is the sense of Congress language that all fiscal year 1995 appropriations made for LIHEAP be expended, and that expenditures in fiscal year 1996 should ensure the same or better level of services.

Thank you Mr. Speaker, for allowing me this opportunity to speak in favor of continuation of this vital program.

Mr. PETE GEREN of Texas. Mr. Speaker, the National Head Start Association conducted a survey in the fall of 1990 that highlighted a serious problem. Fully one-third of the responding Head Start programs indicated that their facilities were in need of extensive repairs, were substandard, or should be replaced entirely.

The legislation that we have before us today goes a long way toward allowing the affected Head Start agencies the flexibility they need to address their infrastructure problems. More can be done, however. I believe that we should allow Head Start agencies to use funds from this program for the design and construction of the necessary facilities, rather than limiting these agencies to purchasing and renovating older, less suitable buildings at greater cost.

Mr. Speaker, Head Start is a good program that is making a difference in the communities in my district and across the country. Allowing Head Start agencies the flexibility to choose the option that best fits their modernization needs, and budgets, makes fiscal and financial sense. The Senate has provided such flexibility in its version of this legislation, and I would urge my colleagues who will serve on the conference committee to adopt this language.

Mr. KENNEDY. Mr. Speaker, it is a little difficult on a beautiful 85-degree day here in Washington to remember how important the Low Income Home Energy Assistance Program [LIHEAP] is to millions of families across the Nation.

Not very long ago, we were suffering through the longest and coldest winter in many, many years. For tens of thousands of Massachusetts' residents, the LIHEAP Program is the only thing that stands between their families and the bone-chilling cold.

Of the families that get LIHEAP benefits in Massachusetts, 75 percent earn less than $10,000 per year, and 40 percent of the households are elderly or disabled.

This year, about one-third of Boston recipients ran out of benefits before Christmas; 65 percent were out of benefits by mid-January.

My friends, the winter is not over in Boston in the middle of January.

The debate today is not a theoretical discussion. When their benefits run out, families with children must choose between heat and food. A Boston Hospital Center study shows the number of malnourished children nearly doubles in the winter because parents know their children can freeze to death overnight—starvation takes longer.

The bill before us today authorizes $2 billion for this crucial program. This will simply restore LIHEAP to its 1985 funding level.

The problem has not gotten smaller, neither should the funding.

I congratulate Chairman MARTINEZ for bringing this important legislation to the floor. We all know the real fight—the fight for the real dollars—is yet to come.

I look forward to working with him and the many other supporters of LIHEAP in these upcoming battles.

Mr. STOKES. Mr. Speaker, I rise today in strong support of H.R. 4250, legislation to reauthorize the critical Head Start Act, the Low Income Home Energy Assistance Program and the Community Services Block Grant Act. I commend my friend on the Education and Labor Committee, MATTHEW MARTINEZ, for his leadership in bringing this crucial bill to the floor. I urge my fellow Representatives to join with our colleagues in the Senate, who passed a similar measure just last week, by voting in favor of H.R. 4250.

Mr. Speaker, the Head Start Program continues to be the most successful pre-school and family support program in the History of this Nation. Although Head Start was designated as a summer program when originally enacted in 1966 as part of President Johnson's war on poverty, this program has dramatically expanded over the years and now assists children and families on a daily basis all year long. In 1966, Head Start received a budget of just $352 million and by fiscal year 1994, the appropriation funding level for the program had grown to $3.3 billion. While this figure supported more than 2,000 locally run Head Start programs and served over 730,000 children and their families during 1994, recent studies by the Advisory Committee on Head Start Quality and Expansion, commissioned by the Secretary of Health and Human Services, Donna Shalala, indicate that Head Start still serves less than 40 percent of all eligible children.

Reauthorizing this pivotal measure will allow more children and parents to enroll in Head Start, furnish these students with the books and supplies they need, offer teachers the compensation they serve, and provide managers with the training and support they require to run strong programs and plan for the future. Head Start has proven that early attention to the needs of children can make a significant difference in their health, educational and social development, and we must continue to authorize this program for these very reasons.

Like Head Start, the Low Income Home Energy Assistance Program [LIHEAP] has played an indispensable role in assisting our Nation's most needy citizens. LIHEAP enables the working poor, the disabled, and the low-income elderly to meet their home energy needs. Since its inception, LIHEAP has proven to be a worthy and important program servicing approximately 375,000 households in my State of Ohio during 1993 alone. By maintaining LIHEAP we will not force our Nation's most vulnerable citizens into choosing between such basic requirements as heat and food.

The varied needs of America's impoverished are served through Head Start and LIHEAP as well as through the Community Services Block Grant Program [CSBG]. CSBG, which provides funds to community action agencies, local governments and Indian tribes to operate programs addressing the problems of poverty and to provide advocacy services for the poor, has created numerous employment and business opportunities for individuals in economically distressed urban areas as well as small, rural communities. Moreover, this far-reaching initiative extends beyond the economic and business realm by including community and nutrition projects, allowing schools serving low-income communities to enroll in Federal nutrition programs, and the National Youth Sport Program which provides low-income youth with day long athletic instruction during the summer.

Mr. Speaker, ignoring the importance of H.R. 4250 will have a crippling effect on the future of our society. The provisions contained in this important piece of legislation, intended to both strengthen and expand the quality of Head Start, Low Income Home Energy Assistance Program and the Community Services Block Grant Program, are crucial to the livelihood of our Nation's neediest citizens. Without these programs, the quality of life for our poor children and families, and our poor elderly and disabled, will further deteriorate and consequently our country will retrogress by refusing to assist our most precious resource, our citizens. I urge my colleagues to vote yes on H.R. 4250.

Mrs. KENNELLY. Mr. Speaker, I rise today in support of H.R. 4250, to authorize appropriations for Head Start, the Low Income Home Energy Assistance Program, and the Community Services Block Grant.

I would like to comment just briefly on two programs that have enormous impact in my State. Head Start is one of the most successful Federal programs to date and one I have consistently supported. Last year's appropriation served more than 730,000 children across this country. And while that may seem like a large number, it represents only 40 percent of those children eligible for Head Start.

H.R. 4250 would reauthorize Head Start through fiscal year 1998 and would strengthen and improve the quality of existing programs. In addition, child development services would be expanded. A particular highlight of Head Start is the new Initiative on Families with Infants and Toddlers which would provide family services to low-income families with very young children. Pregnant women and families with children under age 3, who meet the low-income standards under the regular Head Start program, would be eligible to participate in this initiative. Early, continuous, and comprehensive child development services would be provided to participants to ensure linkage to Head Start programs and continuity of future service.

Another important piece of H.R. 4250 is the reauthorization of the Low-Income Home Energy Assistance Program. LIHEAP has been a highly successful program in serving the needs of low-income elderly, disabled, and

working poor in Connecticut and is particularly important in light of the harsh winter the Northeast just experienced. I am pleased that the bill authorizes $2 billion for fiscal year 1995. This is $1.27 billion more than the administration's request.

The core purpose of providing heating assistance to low-income households based on total household income has been maintained in this bill. States, within existing eligibility standards, may give priority to households with the highest energy costs or needs in relation to their income. A household may not be excluded from LIHEAP eligibility if its income is less than 110 percent of poverty.

The bill would also make permanent the authorization to appropriate $600 million each year in emergency funds to meet the needs of residents in States that have suffered natural disasters. Under current law, the process of seeking release of these funds created difficulty in terms of timing for States trying to meet immediate crisis situations. Permanent authorization of emergency funds is a significant step to facilitating better and more timely action.

I am also pleased that the language of House Concurrent Resolution 202 was included in this bill expressing that LIHEAP should be a priority to enable the working poor, the disabled, and the low-income elderly to meet their energy costs and needs.

Mr. Speaker, I urge my colleagues to support H.R. 4250 to preserve services like Head Start and LIHEAP that are vital to thousands of Americans.

Mr. ROEMER. Mr. Speaker, I rise in strong support of the reauthorization of the Head Start Program, the Community Services Block Grant, and the Low Energy Assistance Act.

Head Start Program, which grew out of the War on Poverty, has been recognized as one of the most successful intervention programs for economically disadvantaged preschool children. Almost 30 years ago, when President Lyndon B. Johnson signed this legislation into law, he proclaimed that the educational, health and social services to be provided to half a million poor children that summer would "make certain that poverty's children would not be forevermore poverty's captives."

Over the years, numerous studies have confirmed that the results of this program have been dramatic. In its 1985 study on preschool education, the Committee on Economic Development reported, "It would be hard to imagine that society could find a higher yield for a dollar investment than that found in preschool programs for at-risk children."

However, the program has not been free of criticism. Serious questions have been raised about the quality of the program. In order to address those issues, last year, the Health and Human Services Secretary, Donna Shalala, created a bipartisan Advisory Committee on Head Start Quality and Expansion. The Committee conducted its review of the current program and issued its recommendations for improvement and expansion. I am pleased that the Advisory Committee's recommendations build on the success of the program and continue the setaside for quality improvements such as raising staff salaries and providing training. The new amendments also require the Secretary to establish quality standards in order to monitor the program.

Last year, the inspector general at the Department of Health and Human Services issued a report that found that Head Start grantees' files and records frequently were incomplete, inconsistent, and difficult to review. In order to address this problem, I have incorporated an amendment into the act that would require the Secretary to establish standards that address recordkeeping and file maintenance practices. In addition, I have incorporated amendments that are designed to promote the health of our Nation's children.

I believe that the new legislation responds to the recent Carnegie report entitled, "Meeting the Needs of our Youngest Children" which recommends a comprehensive approach to combating child poverty. Last year, the General Accounting Office issued a report which shows that the number of poor children under age 6 has grown by more than 25 percent during the 1980's. The extension of the Head Start Program to provide services to infants and toddlers from birth to age 3 is designed to help families and their children at the earliest ages. These formative years are critical for the intellectual, physical, social, and emotional development of children.

I also believe that we must pay particular attention to the growing trend of more women entering the work force. As we look to the President's goal of reforming our current welfare system, we must try to respond to the needs of low-income mothers by providing full-working-day, full-year care. Head Start's part-day, part-year services do not meet the needs of mothers or families who are working or enrolled in education or training programs. Additionally, if we are going to successfully reform our current welfare system, responding to the growing trends of more working families and more single mothers is critical.

Finally, I want to say that I was pleased to work with Chairman MARTINEZ and Representative GUNDERSON on a bipartisan basis to include the reauthorization of the National Youth Sports Program [NYSP] in this bill. For more than a quarter of a century, NYSP has served youth aged 10 to 16 who are growing up in economically disadvantaged environments. This program provides sports instruction and a host of other enrichments, such as a daily USDA-approved meal, education and career counseling, math and science instruction, and medical examinations for our underprivileged youth.

Both the Head Start Act and the National Youth Sports Program reaffirm our commitment to invest in our children. I urge my colleagues to support H.R. 4250.

Mr. MARTINEZ. 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 California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 4250, as amended.

The question was taken.

Mr. ARMEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous material, on H.R. 4250, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONCURRENCE WITH AMENDMENT TO H.R. 1727, ARSON PREVENTION ACT OF 1994

Mr. BOUCHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 413) providing for the concurrence by the House, with an amendment, in the amendment by the Senate to the bill H.R. 1727.

The Clerk read as follows:

H. RES. 413

Resolved, That, upon adoption of this resolution, the bill (H.R. 1727) to establish a program of grants to States for arson research, prevention, and control, and for other purposes, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table, and the same are hereby agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arson Prevention Act of 1994".

SEC. 2. FINDINGS.

Congress finds that—

(1) arson is a serious and costly problem, and is responsible for approximately 25 percent of all fires in the United States;

(2) arson is a leading cause of fire deaths, accounting for approximately 700 deaths annually in the United States, and is the leading cause of property damage due to fire in the United States;

(3) estimates of arson property losses are in the range of $2,000,000,000 annually, or approximately 1 of every 4 dollars lost to fire;

(4) the incidence of arson in the United States is seriously underreported, in part because of the lack of adequate participation by local jurisdictions in the National Fire Incident Reporting System (NFIRS) and the Uniform Crime Reporting (UCR) program;

(5) there is a need for expanded training programs for arson investigators;

(6) there is a need for improved programs designed to enable volunteer firefighters to detect arson crimes and to preserve evidence vital to the investigation and prosecution of arson cases;

(7) according to the National Fire Protection Association, of all the suspicious and incendiary fires estimated to occur, only ⅓ are confirmed as arson; and

(8) improved training of arson investigators will increase the ability of fire departments to identify suspicious and incendiary fires, and will result in increased and more effective prosecution of arson offenses.

SEC. 3. ARSON PREVENTION GRANTS.

The Federal Fire Protection and Control Act of 1974 is amended by inserting after section 24 (15 U.S.C. 2220) the following new section:

"SEC. 25. ARSON PREVENTION GRANTS.

"(a) DEFINITIONS.—As used in this section:

"(1) ARSON.—The term 'arson' includes all incendiary and suspicious fires.

"(2) OFFICE.—The term 'Office' means the Office of Fire Prevention and Arson Control of the United States Fire Administration.

"(b) GRANTS.—The Administrator, acting through the Office, shall carry out a demonstration program under which not more than 10 grant awards shall be made to States, or consortia of States, for programs relating to arson research, prevention, and control.

"(c) GOALS.—In carrying out this section, the Administrator shall award 2-year grants on a competitive, merit basis to States, or consortia of States, for projects that promote one or more of the following goals:

"(1) To improve the training by States leading to professional certification of arson investigators, in accordance with nationally recognized certification standards.

"(2) To provide resources for the formation of arson task forces or interagency organizational arrangements involving the police and fire departments and other relevant local agencies, such as a State arson bureau and the office of a fire marshal of a State.

"(3) To combat fraud as a cause of arson and to advance research at the State and local levels on the significance and prevention of fraud as a motive for setting fires.

"(4) To provide for the management of arson squads, including—

"(A) training courses for fire departments in arson case management, including standardization of investigative techniques and reporting methodology;

"(B) the preparation of arson unit management guides; and

"(C) the development and dissemination of new public education materials relating to the arson problem.

"(5) To combat civil unrest as a cause of arson and to advance research at the State and local levels on the prevention and control of arson linked to urban disorders.

"(6) To combat juvenile arson, such as juvenile fire-setter counseling programs and similar intervention programs, and to advance research at the State and local levels on the prevention of juvenile arson.

"(7) To combat drug-related arson and to advance research at the State and local levels on the causes and prevention of drug-related arson.

"(8) To combat domestic violence as a cause of arson and to advance research at the State and local levels on the prevention of arson arising from domestic violence.

"(9) To combat arson in rural areas and to improve the capability of firefighters to identify and prevent arson initiated fires in rural areas and public forests.

"(10) To improve the capability of firefighters to identify and combat arson through expanded training programs, including—

"(A) training courses at the State fire academies; and

"(B) innovative courses developed with the Academy and made available to volunteer firefighters through regional delivery methods, including teleconferencing and satellite delivered television programs.

"(d) STRUCTURING OF APPLICATIONS.—The Administrator shall assist grant applicants in structuring their applications so as to ensure that at least one grant is awarded for each goal described in subsection (c).

"(e) STATE QUALIFICATION CRITERIA.—In order to qualify for a grant under this section, a State, or consortium of States, shall provide assurances adequate to the Administrator that the State or consortium—

"(1) will obtain at least 25 percent of the cost of programs funded by the grant, in cash or in kind, from non-Federal sources;

"(2) will not as a result of receiving the grant decrease the prior level of spending of funds of the State or consortium from non-Federal sources for arson research, prevention, and control programs;

"(3) will use no more than 10 percent of funds provided under the grant for administrative costs of the programs; and

"(4) is making efforts to ensure that all local jurisdictions will provide arson data to the National Fire Incident Reporting System or the Uniform Crime Reporting program.

"(f) EXTENSION.—A grant awarded under this section may be extended for one or more additional periods, at the discretion of the Administrator, subject to the availability of appropriations.

"(g) TECHNICAL ASSISTANCE.—The Administrator shall provide technical assistance to States in carrying out programs funded by grants under this section.

"(h) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult and cooperate with other Federal agencies to enhance program effectiveness and avoid duplication of effort, including the conduct of regular meetings initiated by the Administrator with representatives of other Federal agencies concerned with arson and concerned with efforts to develop a more comprehensive profile of the magnitude of the national arson problem.

"(i) ASSESSMENT.—Not later than 18 months after the date of enactment of this subsection, the Administrator shall submit a report to Congress that—

"(1) identifies grants made under this section;

"(2) specifies the identity of grantees;

"(3) states the goals of each grant; and

"(4) contains a preliminary assessment of the effectiveness of the grant program under this section.

"(j) REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations to implement this section, including procedures for grant applications.

"(k) ADMINISTRATION.—The Administrator shall directly administer the grant program required by this section, and shall not enter into any contract under which the grant program or any portion of the program will be administered by another party.

"(l) PURCHASE OF AMERICAN MADE EQUIPMENT AND PRODUCTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that any recipient of a grant under this section should purchase, when available and cost-effective, American made equipment and products when expending grant monies.

"(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In allocating grants under this section, the Administrator shall provide to each recipient a notice describing the statement made in paragraph (1) by the Congress.".

SEC. 4. VOLUNTEER FIREFIGHTER TRAINING.

Section 24(a)(2) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2220(a)(2)) is amended by inserting before the semicolon the following: ", with particular emphasis on the needs of volunteer firefighters for improved and more widely available arson training courses".

SEC. 5. CPR TRAINING.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

"SEC. 32. CPR TRAINING.

"No funds shall be made available to a State or local government under section 25 unless such government has a policy to actively promote the training of its firefighters in cardiopulmonary resuscitation.".

SEC. 6 FEDERAL EMPLOYEE HOUSING EXCEPTIONS.

Section 31(c)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2227(c)(1)) is amended—

(1) in subparagraph (A), by striking "No Federal" and inserting in lieu thereof "Except as otherwise provided in this paragraph, no Federal"; and

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

"(C) Housing covered by this paragraph that does not have an adequate and reliable electrical system shall not be subject to the requirement under subparagraph (A) for protection by hard-wired smoke detectors, but shall be protected by battery operated smoke detectors.

"(D) If funding has been programmed or designated for the demolition of housing covered by this paragraph, such housing shall not be subject to the fire protection requirements of subparagraph (A), but shall be protected by battery operated smoke detectors.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(h) In addition to any other amounts that are authorized to be appropriated to carry out this Act, there are authorized to be appropriated to carry out this Act—

"(1) $500,000 for fiscal year 1995 for basic research on the development of an advanced course on arson prevention;

"(2) $2,000,000 for fiscal year 1996 for the expansion of arson investigator training programs at the Academy under section 24 and at the Federal Law Enforcement Training Center, or through regional delivery sites;

"(3) $4,000,000 for each of fiscal years 1995 and 1996 for carrying out section 25, except for salaries and expenses for carrying out section 25; and

"(4) $250,000 for each of the fiscal years 1995 and 1996 for salaries and expenses for carrying out section 25.".

SEC. 8. SUNSET.

Notwithstanding any other provision of this Act, no funds are authorized to be appropriated for any fiscal year after fiscal year 1996 for carrying out the programs for which funds are authorized by this Act, or the amendments made by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 20 minutes, and the gentleman from New York [Mr. BOEHLERT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 413 contains an amendment to the Senate amendment to H.R. 1727 which amends the Federal Fire Prevention and Control Act of 1974 to establish a program of demonstration grants to strengthen State arson investigator training courses, and to provide new resources in the fight against this very serious criminal justice and fire protection problem. The bill also authorizes the development of an advanced course on arson prevention and investigation at the National Fire Academy, the Federal Law Enforcement Training Center, and the FBI Training Academy.

Arson remains a deadly crime. It is a leading cause of fire-related deaths, accounting for approximately 700 deaths annually in the United States. Each year, there are more than 500,000 incendiary or suspicious fires, causing estimated property losses in the range of $2 billion. Despite the devastating human and economic costs of arson, it remains one of the most difficult crimes to solve or prosecute successfully. The National Fire Protection Association estimates that only about 2 percent of arson fires lead to convictions. There is a need for standardization of investigative techniques and reporting methodology to facilitate a more accurate representation of the true scope of the arson problem. Firefighters require better training in recognizing and preserving the evidence of arson. Rural and volunteer firefighters have a particular need for improved access to this instruction.

The Arson Prevention Act of 1994 was developed in response to requests from the fire services community nationally to provide Federal support to help stem the growing arson problem. The House passed H.R. 1727 by voice vote on July 26, 1993. The other body passed H.R. 1727 with an amendment in the nature of a substitute on November 22, 1993.

The measure before the House today makes only minor changes to the amendment in the nature of a substitute that was approved by the other body last November. First, we have retained a provision that was offered by the gentleman from Pennsylvania [Mr. WALKER], in the full Science, Space, and Technology Committee markup. That provision requires States to have a policy of actively promoting training in cardiopulmonary resuscitation [CPR] for its firefighters as a condition of receiving a grant under the act. Second, we have retained a sunset provision for the program which runs concurrently with the 2-year authorization. Third, we have changed the authorization years under the bill from fiscal years 1994 and 1995 to fiscal years 1995 and 1996. And finally, we have corrected an oversight in the provisions of the Federal Fire Administration Authorization Act of 1992—Public Law 102-522—mandating hard-wired smoke detectors in facilities housing Federal employees. The narrow amendment covers those rare situations in which a reliable source of electricity is not available and allows the Government to employ battery operated smoke detectors in such situations. We have discussed these changes with Members of the other body and are assured that the bill will be taken up and passed promptly.

I would like to say a word of thanks to the gentleman from New York [Mr. BOEHLERT], the ranking Republican member of our Subcommittee on Science. Mr. BOEHLERT is a recognized leader in many congressional efforts to provide better fire protection and he has been of outstanding help in both the drafting and passage of this measure.

I also want to acknowledge the contributions to this measure of the ranking Republican member of the full Committee on Science, Space, and Technology, the gentleman from Pennsylvania, Mr. WALKER, our full committee chairman, Mr. BROWN of California, and the leaders of the Congressional Fire Services Institute, Mr. HOYER of Maryland, and Mr. WELDON of Pennsylvania.

Mr. Speaker, this is a carefully drawn response to a growing criminal justice and fire protection problem and I am pleased to urge its passage.

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Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this bill, which I cosponsored with the chairman. Arson is a serious threat to lives and property, and it is one of the most difficult crimes to investigate and prosecute. We will only begin to make a dent in the arson problem if we focus more attention on it.

The U.S. Fire Administration was established to handle precisely this sort of problem—combatting a nationwide danger that States and localities have been unable to confront alone. The grants and enhanced training that the Fire Administration will provide under this bill should be an important step in addressing the arson problem.

When the committee considers the overall authorization for the Fire Administration, we will have to decide whether these grants will be paid for with new money or will come out of the President's request. Mr. WALKER, the ranking member of the Science Committee, who has been a strong supporter of this arson bill, will be pressing to pay for these grants out of existing funds, and we must address that issue by taking a hard look at Fire Administration programs in the authorization bill.

I want to thank Chairman BOUCHER for working with me to clear up some technical problems in the Federal Fire Safety Act, which we worked on in the last Congress. The new provisions will make clear that the requirements for sprinklers and hard-wired smoke detectors do not apply to properties that do not have access to water or electricity. This primarily involves backwoods properties under the control of the Department of Interior. The properties still must have battery-powered smoke detectors.

I am pleased that the agencies are taking the act seriously enough to bring this technical problem to our attention. We look forward to the smooth implementation and rigorous enforcement of the act.

I urge my colleagues to support this bill.

Mr. BROWN of California. I rise in strong support of H.R. 1727, the Arson Prevention Act of 1994.

This bill represents a serious and thoughtful attempt by the Committee on Science, Space, and Technology to reduce the incidence of arson in the United States.

The bill authorizes grants for demonstration programs at the State level to improve the training of arson investigators, to form regional arson task forces, to perform research on the causes of arson, and to combat specific causes of arson—such as gang related activity.

No area of the United States is immune from the threat of arson. In my district alone, San Bernadino County fire officials reported more than 100 arson related fires last year, and nationally the figure approaches 500,000. Property losses are in the billions.

I commend the distinguished Chairman of the Subcommittee on Science, Mr. BOUCHER, for his work on this legislation. I also commend Mr. BOEHLERT of New York and Mr. WALKER of Pennsylvania for their contributions. This bill has widespread bipartisan support, and I am pleased to recommend this bill to the House.

Mr. HOYER. Mr. Speaker, as the chairman of the Congressional Fire Services Caucus, it gives me great pleasure to rise in strong support of H.R. 1727, the Arson Prevention Act, and its Senate amendments. This has been a top priority of the fire caucus in the 103d Congress, and I am pleased that this measure is now moving forward.

Arson continues to be one of the most destructive problems in our country today. In fact, as a percentage of all fires, arson has been increasing during the last 4 to 5 years.

That's a frightening trend when you consider that 1 out of every 12 civilian fire deaths is due to arson, and nearly one out of every four fire service deaths results from arson fires.

While arson fire will never be a completely preventable crime, H.R. 1727 takes a giant step toward reorientating how local, State, and Federal agencies approach this problem. It includes over $10 million in grant money designed to improve arson detection, investigation, and prevention.

The terrible arson fires in southern California last year symbolized the blight these fires create. There is no better testament to the need of this bill, than the thousands of Californians whose lives have been irrevocably changed by this crime.

Today, we can take action to help our local communities fight arson. I urge all of my colleagues to support the Senate amendments to H.R. 1727.

Mr. BOEHLERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I have no further requests for time, and 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 Virginia [Mr. BOUCHER] that the House suspend the rules and agree to the resolution, House Resolution 413.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 413, the resolution just considered and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

APPOINTMENT OF MANUEL LUIS IBÁÑEZ TO THE SMITHSONIAN INSTITUTION

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 279) providing for the appointment of Manuel Luis Ibáñez as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

H.J. RES. 279

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Anne Legendre Armstrong of Texas, is filled by the appointment of Manuel Luis Ibáñez of Texas. The appointment is for a term of 6 years and shall take effect on the day after the effective date of the resignation of Anne Legendre Armstrong.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 279.

As our Nation's museum, the Smithsonian Institution is the world's largest museum complex with 20 major facilities, including the world famous Air and Space Museum, the National Museum of Natural History, the National Museum of African Art, and the National Museum of American History.

Congress has vested the responsibility to administer the Smithsonian in the Smithsonian Board of Regents, which is composed of the Chief Justice, the Vice President, three Members of the Senate, three Members of the House, and nine Citizen Regents. The Regents receive no salary for their services to the Board and are appointed to a term of 6 years.

House Joint Resolution 279 provides for the appointment of Manuel Luis Ibáñez to fill the vacancy of Anne Legendre Armstrong as a Citizen Regent of the Board of Regents of the Smithsonian Institution.

Mr. Ibáñez is the president of Texas A&I University and a professor of microbiology. He has had a long and distinguished career in academia and he will be an asset to the Smithsonian Board of Regents.

Mr. Ibáñez has complied with all the guidelines set by the committee to receive its approval, and therefore, I urge my colleagues to support and adopt House Joint Resolution 279.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Joint Resolution 279, and endorse the appointment of Manuel Luis Ibáñez to the Board of Regents of the Smithsonian Institution.

Dr. Ibáñez would bring to the Board of Regents an extensive academic background, as well as vital administrative experience, as president of Texas A&I University.

His creativity in the development and establishment of numerous programs and degrees could prove to be very beneficial to the Smithsonian Institution.

This accomplished scholar has actively participated in various professional societies, performed extensive academic and public service, and has personal and institutional experience involving grants, awards, and funding.

Dr. Ibáñez has a proven record in the area of fundraising. Most notably, he increased the endowment from $1½ to $5½ million, while president of Texas A&I University. Proficiency in this area is needed at an institution which so often relies on public donations.

My visit with Dr. Ibáñez yielded many positive thoughts. My impression of this gentleman was that he expressed great enthusiasm with regard to the museums.

Dr. Ibáñez previously mentioned to our subcommittee his idea of expanding the museums, through traveling exhibits that would tour some of the smaller towns and cities in the United States.

As a member of a rural district primarily comprised of smaller towns, I recognize the importance of access of these cultural and historical exhibits, that the people of Washington and the other larger cities in the United States so readily enjoy.

Dr. Ibáñez also has an excellent understanding of the current fiscal situation facing the Smithsonian and expressed some excellent ideas in broadening the private contribution base.

I believe he embodies a desire to keep the Smithsonian museums among the most highly respected in the world. I encourage my colleagues to support House Joint Resolution 279, and I reserve the balance of my time.

Mr. Speaker, I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I rise in support of House Joint Resolution 279, a resolution appointing Manuel Luis Ibanez as a member of the board of regents for the Smithsonian Institution for a 6-year term.

As the senior regent in the House of Representatives, I introduced this legislation when Mr. Ibanez's nomination was approved by the board of regents last year.

Mr. Ibanez is the president of Texas A&I University and a professor of microbiology. From his leadership roles at Texas A&I University, he has significant experience in the arts and science. He is an accomplished author and speaker on a variety of topics.

In addition, he is involved with several research organizations and professional societies whose goals include advancing the education and involvement of a broad audience about science and various related areas of study. Mr. Ibanez is an active public servant and will bring his unique expertise to the many issues before the board of regents.

I urge you to support his appointment.

Mr. FROST. Mr. Speaker, I have no further requests for time, and 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. FROST] that the House suspend the rules and pass the joint resolution, House Joint Resolution 279.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 279, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FROST. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 144) providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 144

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on

the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Anne Legendre Armstrong of Texas, is filled by the appointment of Manuel Luis Ibanez of Texas. The appointment is for a term of 6 years and shall take effect on the day after the effective date of the resignation of Anne Legendre Armstrong.

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.

A similar House joint resolution (H.J.Res. 279) was laid on the table.

APPOINTMENT OF FRANK ANDERSON SHRONTZ TO THE SMITHSONIAN INSTITUTION

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 280) providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Robert James Woolsey, Jr. of Maryland on April 2, 1993, is filled by the appointment of Frank Anderson Shrontz of Washington. The appointment is for a term of 6 years and shall take effect on the date on which this joint resolution becomes law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 280. House Joint Resolution 280 provides for the appointment of Frank Anderson Shrontz, to fill the vacancy of Robert James Woolsey, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution. Mr. Shrontz is an airplane manufacturing executive of the Boeing Co. He has had a long and successful career, and his business and marketing expertise will be an asset to the Smithsonian Board of Regents.

Mr. Shrontz has complied with all guidelines set by the committee to receive its approval, and therefore I urge my colleagues to support and adopt House Joint Resolution 280.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Joint Resolution 280, which would provide for the appointment of Mr. Frank Anderson Shrontz to the Smithsonian Board of Regents.

Mr. Shrontz would bring the Smithsonian Board of Regents some impeccable credentials. He possesses an administrative background matched by very few, as chief executive officer of the Boeing Co.

I believe his experience in this demanding position has prepared him with some essential training that could help the Smithsonian confront the challenges it may face in the future.

Mr. Shrontz's successful managerial background in a large, complex organization, demonstrates his potential for bringing that same effective oversight to the Smithsonian Institution.

I had the pleasure of personally visiting with Mr. Shrontz and I found him to be very amiable, as well as in touch with all of my concerns involving the museums. I believe he has a firm understanding in making the difficult decisions necessary, while operating in a constrained financial environment.

In questions about the Institution prior to our visit, he expressed our mutual interest in creating financial stability within the Institution, for the purpose of maintaining the Smithsonian's high quality and consistency. He stated this in terms of setting firm priorities and meaningful constraints on expansion.

In addition to an extracurricular interest in the areas of art, history, and international programs, Mr. Shrontz would bring an expertise in air and space technologies, that could prove to be advantageous as a member of the Board of Regents.

Mr. Speaker, I urge my colleagues to join me in support of Mr. Shrontz.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of House Joint Resolution 280 that will provide for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

As the chairman and chief executive officer of the Boeing Co., Frank Shrontz comes to the Smithsonian as a management expert adept at the oversight of a large complex organization. As a member of the Board of Regents, his contributions will be invaluable as the Smithsonian establishes priorities for the 21st century.

With the dawn of a new century, a new technology-driven century, it is essential for America to recognize that the key to continued economic vitality is for America to produce workers who are both highly educated and highly skilled. Fortunately, for America and for our youth, Frank Shrontz has been on the forefront of the educational reform movement; pushing and prodding elected officials and educators, students, and administrators to change an educators, system so as to boldly meet the new needs and new challenges of our Nation.

At its essence, the Smithsonian Institution is a hub of educational and cultural learning. At the Smithsonian, men and women, young and old, from diverse backgrounds and ethnic origins come together to learn of our past, to seek answers to the future, and to attempt to bridge the gaps that divide us. At the Smithsonian, the intellect is constantly challenged and the imagination is endlessly piqued. Frank Shrontz is the right man to ensure that the Smithsonian's educational journey continues unabated and uninterrupted.

Frank Shrontz, management authority and educational conscience, is a man imminently well qualified to lead as a citizen regent of the Board of Regents of the Smithsonian Institution. I rise in unequivocal support and ask my colleageus for their unanimous approval of this resolution.

Mr. MINETA. Mr. Speaker, I rise in strong support of House Joint Resolution 280, a resolution appointing Frank Anderson Shrontz as a member of the Board of Regents for the Smithsonian Institution for a 6-year term.

As the senior Regent in the House of Representatives, I introduced this legislation when Mr. Shrontz's nomination was approved by the Board of Regents last year.

Mr. Shrontz is the president and chief executive officer of the Boeing Co. From his many roles in business and public affairs for Boeing, he has garnered significant experience in the corporate world. Mr. Shrontz is certainly considered a leader in the aviation industry.

In addition, he is involved with a variety of business councils and serves on the board of directors for Citicorp, the Boise Cascade Corp., and Minnesota Mining and Manufacturing [3M]. Mr. Shrontz is active in a number of civic and charitable organizations. He will bring an invigorated approach and unique knowledge of corporate America and the complexities of the business world to the many issues before the Board of Regents.

I urge you to support his appointment.

Mr. BARRETT of Nebraska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the joint resolution, House Joint Resolution 280.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the joint resolutin was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days in which to revise and exend their remarks on House Joint Resolution 280, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

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Mr. FROST. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the Senate joint resolution (S.J. Res. 143) providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 143

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Robert James Woolsey, Jr., of Maryland on April 2, 1993, is filled by the appointment of Frank Anderson Shrontz of Washington. The appointment is for a term of 6 years and shall take effect on the date on which this joint resolution becomes law.

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.

A similar House joint resolution (H.J. Res. 280) was laid on the table.

JEAN MAYER HUMAN NUTRITION RESEARCH CENTER ON AGING

Mr. NADLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4204) to designate the Federal building located at 711 Washington Street in Boston, MA, as the "Jean Mayer Human Nutrition Research Center on Aging".

The Clerk read as follows:

H.R. 4204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 711 Washington Street in Boston, Massachusetts, shall be known and designated as the "Jean Mayer Human Nutrition Research Center on Aging".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Jean Mayer Human Nutrition Research Center on Aging".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. NADLER] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Dr. Jean Mayer was a truly remarkable man. He was an advisor to three Presidents, a decorated World War II hero, a renowned researcher, an author, a lecturer, and an educator. He was instrumental in establishing the National Food Stamp Program, the School Lunch Program, and other national nutritional programs. His research on the effects of nutrition and aging has made significant contributions to the health of our senior citizens. He pioneered research into the effects of poverty on malnutrition and aging. Dr. Mayer also studied the effects of smoking and high-cholesterol foods on coronary heart disease. For his devotion and dedication to public health issues, and for his outstanding contributions to scientific research, it is fitting and proper that the Federal building at 711 Washington Street, Boston, MA, be designated the "Jean Mayer Human Nutrition Research Center on Aging." Mr. Speaker, I wish to thank Chairman JOE MOAKLEY for sponsoring H.R. 4204 and for his diligent efforts in support of this bill. In closing, I ask my colleagues to support H.R. 4202, and I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4204, which designates the Federal building at 711 Washington Street in Boston, MA, as the Jean Mayer Human Nutrition Research Center on the Aging.

Dr. Mayer gained international recognition for his search for solutions to the nutritional problems of the poor and the elderly. Presidents Nixon, Ford, and Carter sought his advice on numerous issues including world hunger, world peace, and civil rights.

Dr. Mayer holds the unique distinction of being named to both the American Academy of Arts and Sciences and the French Academy of Sciences. During World War II, Dr. Mayer's native country of France awarded him the French equivalent of the Congressional Medal of Honor.

Dr. Mayer is a graduate of Yale University and a former member of the faculty at Harvard University. He has dedicated his life to serving his fellow citizens of the world by assuming leadership positions at the United Nations, the World Health Organization, and UNICEF.

The Human Nutrition Research Center on Aging in Boston was a dream of Dr. Mayer's which he made a reality. I am pleased to join the sponsor of this legislation, Congressman MOAKLEY, in urging our fellow Members to name this center after one of our Nation's most respected nutritionists, Dr. Jean Mayer.

Mr. MOAKLEY. Mr. Speaker, let me first thank my colleague and friend, Mr. TRAFICANT, the gentleman from Ohio, the Chair of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, for managing, supporting, and making possible this legislation.

Mr. Speaker, I would like to thank my friends on the Republican side, especially the gentleman from Tennessee [Mr. DUNCAN], the ranking member of the subcommittee, for helping to move this legislation forward. I would also like to thank Dr. John DiBiaggio for assisting with this legislation. Dr. DiBiaggio succeeded Dr. Jean Mayer as president of Tufts University and is doing truly exemplary work in continuing the legacy of both Jean Mayer and Tufts University.

Mr. Speaker, thank you for the opportunity to appear before the House today to support H.R. 4204 to name the Human Nutrition Research Center on Aging in Boston, MA, for Dr. Jean Mayer.

First let me explain the mission of the Human Nutrition Research Center on Aging. I think my colleagues will clearly see why it is fitting to name the Center for Dr. Jean Mayer. The Center is a free-standing Federal facility located at 711 Washington Street in Boston, MA, my congressional district. The facility was established by the Congress through the Food and Agriculture Act of 1977 and houses 250 research and support staff that work with a number of Federal agencies on issues affecting the nutritional requirements and the role nutrition plays in the aging process of senior citizens.

Mr. Speaker, unfortunately, the Center's mission becomes more relevant to all of us with each passing day. The Center today serves as a national model of Federal Government/university/State and city collaboration benefiting not only the American people, but people around the world. The accomplishments at the Center are unparalleled and its establishment has even helped to spur the economic redevelopment of a section Boston unfortunately known as the Combat Zone.

Mr. Speaker, the Human Nutrition Research Center on Aging was a dream made possible by Dr. Jean Mayer's strong mind and vision and, oftentimes, persistence. Mr. Speaker, as one who worked closely with Jean Mayer through the years, I can honestly say it was a mission to better all mankind. Dr. Jean Mayer was one of the world's leaders in the field of nutrition who recognized early in his career the relationship between nutrition and the productive lives of senior citizens. Recent studies have confirmed this relationship, as well as the relationship of nutrition to the health of senior citizens. This research is extremely timely given the great debate over health care and health care costs before the Congress today. The improved health of senior citizens can and will literally save our country millions of dollars through reduced health care costs.

In addition to these efforts, Dr. Jean Mayer was truly a national resource. He was born in

Paris, France, in 1920 and did his undergraduate studies at the University of Paris. During World War II, he served in the French Army, the Free French Forces and participated in numerous campaigns including North Africa, Italy, and the Battle of the Bulge and received France's highest decoration for bravery, the Croix de Guerre, the equivalent of our Congressional Medal of Honor. His daring exploits during the war are truly legend, both in France and the United States.

After completing his graduate studies at Yale University, Dr. Mayer served on the faculty of Harvard University until his appointment as the 10th President of Tufts University in 1976, followed by his appointment as chancellor of Tufts University in 1992. Dr. Jean Mayer's service to mankind is long and varied as represented by his leadership within the United Nations, the World Health Organization, UNICEF, and technical missions on various continents, including his mission to war-torn Biafra in the late 1960's. As chairman of the U.S. National Council on Hunger and Malnutrition, Dr. Jean Mayer played a major role in calling our Nation's attention to the nutritional problems of the poor in America. Prior to his unfortunate death in 1993, he continued to serve as an advisor to numerous Presidents on issues relating to world hunger, world peace, and the protection of civil rights. For these efforts, Dr. Mayer was elected to both the American Academy of Arts and Sciences and the French Academy of Sciences—one of the few Americans to be honored with election to both Academies.

Mr. Speaker, Members of the House, it is for these outstanding contributions to not only the American people, but people around the world that I introduced H.R. 4204 to name the Human Nutrition Research Center on Aging for Dr. Jean Mayer. Naming the Center for Human Nutrition Research on Aging for Dr. Jean Mayer is a great tribute to this wonderful man, and it can serve as a symbol to encourage others to follow in his footsteps of service to our country and other countries around the world.

Again, Mr. Speaker, Members of the House, thank you for your consideration of this legislation which honors a great man.

Mr. Speaker, I urge adoption of the motion and yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. NADLER] that the House suspend the rules and pass the bill, H.R. 4204.

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.

GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

USE OF THE CAPITOL GROUNDS FOR THE 13TH ANNUAL NATIONAL PEACE OFFICERS' MEMORIAL SERVICE

Mr. NADLER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 237) authorizing the use of the Capitol Grounds for the 13th annual National Peace Officers' Memorial Service.

The Clerk read as follows:

H. CON. RES. 237

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL PEACE OFFICERS' MEMORIAL SERVICE.

The National Fraternal Order of Police and its auxiliary shall be permitted to sponsor a public event, the 13th annual National Peace Officers' Memorial Service, on the Capitol grounds on May 15, 1994, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate, in order to honor the 151 law enforcement officers who died in the line of duty during 1993.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized to be conducted on the Capitol grounds under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board.

(b) EXPENSES AND LIABILITIES.—The National Fraternal Order of Police and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National Fraternal Order of Police and its auxiliary are authorized to erect upon the Capitol grounds such stage, sound amplification devices, and other related structures and equipment, as may be required for the event authorized to be conducted on the Capitol grounds under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements as may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. NADLER] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and honored to be associated with this resolution which would authorize the use of the Capitol Grounds for this very notable memorial service. All citizens are aware of the great danger inherent in today's law enforcement profession. We have all witnessed the profound sacrifices made by these brave men and women and, of course, by their families. Too often in recent years the thin blue line has been stretched beyond capacity. Budget cuts and lack of other resources have contributed to making the law enforcement profession one of constant exposure to danger and death.

In 1963, President John Kennedy proclaimed May 15 as National Peace Officers' Memorial Day. It is a day to reflect upon the meaningful and important contributions made by our National law enforcement community. I urge my colleagues to join me in recognizing and honoring the dedication and memory of our slain law enforcement officers.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to rise in support of House Concurrent Resolution 237, which authorizes the use of the Capitol Grounds for the 13th annual National Peace Officers Memorial Service. This event will pay respect to those peace officers who have died in the line of duty this past year.

The men and women who serve as peace officers in this Nation are very special. They risk their lives on a daily basis to make our families, streets, neighborhoods, and workplaces safe.

Certainly the most basic civil right of all is the right of people to be safe in their homes and in their communities. Unfortunately, in far too many instances, these officers pay the ultimate price to protect each of us from harm. It is these officers who will be honored at this year's memorial service.

I would like to tell the family, friends, and fellow officers of those peace officers who died in the line of duty this past year that all of us share your grief and sense of loss. I also want them to know that we here in the Congress share their pride in the knowledge that these brave officers are true American heroes.

The grounds of the U.S. Capitol have been utilized to honor Presidents and world leaders. However, I can think of no better use of our Capitol than to honor the men and women who serve all of us as peace officers.

Mr. Speaker, for 7½ years before coming to Congress I served as a criminal circuit court judge in Tennessee, and I worked very closely with the law enforcement personnel in my home State, and I can tell my colleagues that I am proud to be associated with them in every way.

I am told that some 153 men and women lost their lives in the line of duty as law enforcement or peace officers in this country this past year. I think it is altogether fitting and proper that we honor them in this way, and I urge passage of House Concurrent Resolution 237.

Mr. TRAFICANT. Mr. Speaker, as the author of House Concurrent Resolution 237, which would authorize the use of the grounds of the U.S. Capitol for the National Peace Officers' Memorial Service on May 15, 1994, I rise in strong support of this resolution and urge the House to approve it today. As chairman of the House Public Works and Transportation Subcommittee on Public Buildings and Grounds, I am pleased that both the subcommittee and the full committee worked expeditiously to approve this resolution and bring it to the House floor.

I would like to thank the chairman of the full committee, my esteemed colleague NORMAN MINETA, the ranking minority member of the full committee, Mr. SHUSTER, the vice chair of my subcommittee, Ms. NORTON, and the ranking minority member of my subcommittee, Mr. DUNCAN, for their support of House Concurrent Resolution 237 and their cooperation in moving this resolution forward.

Mr. Speaker, from 1981 to 1985, I had the honor of serving as sheriff of Mahoning County, OH. As a former law enforcement officer, I know all too well the many challenges facing America's law enforcement officers. The 151 officers who died in the line of duty in 1993 are a tragic reminder of the many dangers facing law enforcement and of the enormous sacrifices our police officers continue to make to keep our streets safe. I can't think of a more appropriate place in America to honor these fallen heroes than the U.S. Capitol. As sheriff, I felt the pain and anguish of having one of my deputies, John R. "Sonny" Litch, Jr., killed in the line of duty on October 22, 1981. I am gratified that Sonny's name is among the more than 10,000 names of fallen law enforcement heroes that appear on the National Law Enforcement Officers Memorial here in Washington, DC.

Mr. Speaker, 596 law enforcement officers from Ohio have been killed in the line of duty since Ohio became a State. At this time, I'd like to list the names of those officers from my congressional district who have fallen in the line of duty.

From the Campbell Police Department: Patrolman John Constantino, killed on May 11, 1920; Lieutenant Albert Masi, killed on February 12, 1973; and Captain Joseph Ruby, killed on November 11, 1923.

From the Mahoning County Sheriff's Office: Deputy Sheriff John R. Litch, Jr., killed on October 22, 1981.

From the Poland Police Department: Patrolman Richard Elton Becker, killed on November 6, 1983, and Patrolman Charles K. Yates, killed on March 30, 1984.

From the Struthers Police Department: Patrolman Richard Darwich, killed on November 16, 1952, and Patrolman John Harkins, killed on January 5, 1952.

From the Youngstown Police Department: Patrolman Samuel Banks, killed on October 4, 1919; Patrolman Frank Cichon, killed on December 21, 1963; Patrolman Henry Clemons, killed on December 4, 1927; Patrolman Ralph J. DeSalle, killed on June 13, 1984; Patrolman Paul Joseph Durkin, killed on September 22, 1987; Patrolman Alfred Evans, killed on November 5, 1911; Patrolman William Freed, killed on May 16, 1891; Patrolman George Leonard, killed on March 29, 1924; Patrolman Alexander Warren, killed on May 3, 1921; Detective Sergeant Millard Williams, killed on April 14, 1992; and Detective Ben Yeaden, killed on February 4, 1925.

Mr. Speaker, the 13th annual National Peace Officers Memorial Service is sponsored by the National Fraternal Order of Police [FOP] and the FOP Auxiliary. The service will honor the 151 law enforcement officers who died in the line of duty in 1993. I want to commend the FOP and the FOP Auxiliary for the fine job they do each and every year in sponsoring and conducting this important and moving service.

All too often, after the headlines fade, the families of the slain officers are forgotten. The emotional scars of losing a loved one never fade. The FOP and FOP Auxiliary, along with Concerns of Police Survivors [COPS] do a truly remarkable job of reaching out to the families and helping them get through the tough times. Their efforts should be recognized and applauded.

The National Peace Officers Memorial Service on May 15, 1994, will once again remind the Nation that law enforcement is a dangerous and challenging profession, and brave men and women continue to give their lives to protect their fellow citizens. The service hopefully will draw the Nation's attention and provide an opportunity for all Americans to reflect upon the bravery, dedication, and integrity of our law enforcement officers.

Once again, Mr. Speaker, I urge my colleagues to support House Concurrent Resolution 237 and vote for its approval today.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. NADLER] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 237.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LET'S STOP KIDS KILLING KIDS WEEK

Mr. WYNN. 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. 360) to designate the week of April 25, 1994, to May 1, 1994, as "Let's Stop Kids Killing Kids Week," and as for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Maryland?

Mr. GILMAN. Mr. Speaker, reserving the right to object, and I do not object, I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 360, legislation that designates the week of April 25, 1994 to May 1, 1994, as "Let's Stop Kids Killing Kids Week." I commend the gentleman from Minnesota [Mr. VENTO] for introducing this important resolution.

The passage of the Violent Crime Control and Law Enforcement Act, last week demonstrates that fighting the crime that plagues our communities is a top priority for the American people. The approved legislation not only incorporates several measures that impose severe penalties on those who break the law, but also institutes proven programs that will deter our youth from choosing a life of crime.

I am pleased that the House-approved crime bill provides community and educational programs that will provide an alternative for our Nation's youth. The rising crime rate among children demonstrates that this must remain a top priority.

Mr. Speaker, I would also like to publicity thank the National League of Cities and the many other community advocacy groups who have worked together to build a broad base coalition to address our crime problems.

With this in mind, I wholeheartedly support this resolution.

Mr. VENTO. Mr. Speaker, House Joint Resolution 360 designates this week, April 25 through May 2, as "Let's Stop Kids Killing Kids Week." Just last week in this Chamber the House of Representatives passed a comprehensive anticrime bill. In the wake of this important legislation it is appropriate for us, not only as Members of Congress, but as members of families and communities throughout this Nation, to focus our attention on the rising incidence of violent crime among our young people.

It is a sad and tragic reality in this country that homicide is the leading cause of death among young African-Americans, and the second leading cause of death for all people ages 15–34. This past decade alone has seen a 128-percent increase in the number of juveniles arrested for murder. We, as leaders and parents, must act now to reverse these trends and to ensure a safe and positive future for our youth.

Last week this body passed legislation as part of the crime bill that represents a step forward in addressing the problem of youth violence. H.R. 4034, the Urban Recreation and at-Risk Youth Act introduced by Natural Resources Committee Chairman GEORGE MILLER and myself expands park and recreation op-

portunities for at-risk youth in high crime urban areas.

During the hearings regarding this legislation, city park directors, police, boys and girls clubs, midnight basketball leagues and others closely involved in youth crime prevention programs testified that recreation works as a crime prevention measure. Many young people in urban areas have little or no access to sports and recreation facilities and this bill will help remedy this situation by providing grants for rehabilitation projects and programs in urban neighborhoods and communities with a high prevalence of crime at a cost much less than the $29,000 a year it takes to incarcerate each juvenile offender.

Programs like these that stress preventing the crimes before they are committed; that teach young people values such as teamwork and fairness; and that remain focused on the community are what we must work on for the future. That is why 233 cosponsors and I, with the support of the National League of Cities and 70 other national organizations, have introduced House Joint Resolution 360.

Let's Stop Kids Killing Kids Week encourages communities across the country to focus their attention on the growing problem of youth violence and what can be done to protect, teach, and provide opportunities for our children and generations to come so they will no longer have to live in a world of hopelessness and fear.

Mr. Speaker, Kids Killing Kids is in fact a learned behavior shaped uniquely by the conditioning of young people in our society, and it is appalling that we are so inept in challenging and changing such learned behavior. The intent of the resolution, House Joint Resolution 360, is not to suggest that a single factor or that a panacea is available to reverse this behavior, but by teaching nonviolent conflict resolution and focusing on the problem of youth violence as a community we can begin to address the impact of the media and programming, the lack of recreation facilities for urban youths, unemployment, drug abuse, and the easy access to the instruments of homicide that has led to the violent behavior of many young people. As a society we must change this behavior; we must stop the dehumanization of people and the actions that flow from such anti-social values especially among young people—we must Stop Kids Killing Kids, a perverse destructive behavior that is all too common across America in the 1990's.

Mr. Speaker, I urge Members to vote in favor of this important measure to bring awareness to the problem of youth violence and to promote the positive development of our Nation's youth.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 360

Whereas the incidence of violent crime by teenagers has increased by alarming proportion in the United States;

Whereas the number of juveniles arrested for murder has increased 128 percent in the past decade;

Whereas an estimated 60 percent of reported crimes are being committed by those between 10–20 years of age;

Whereas homicide is the leading cause of death among young African-Americans and second for all people ages 15–34;

Whereas young people ages 12–24 face the highest risk of nonfatal assault by any group in America;

Whereas the economic and emotional costs to victims, and society in general, has reached epidemic proportions;

Whereas the Nation faces a continuing need to support programs and services that give young people hope and to offer them alternatives to crime;

Whereas dedicated groups such as the National League of Cities, together with a broad based coalition of 70 national educational, religious, local government, law enforcement, medical, legal, civil rights, media, community service, and family advocacy organizations have announced a week-long campaign against youth violence during the week of April 25–May 1, 1994, including activities in cities across America to focus on the tragic consequences of youth violence for families and communities;

Whereas during the week-long campaign against youth violence important discussions with students, teachers, doctors, lawyers, and police will be held regarding youth violence and its effects, along with recognizing those individuals and programs that are doing outstanding work on youth violence prevention; and

Whereas it is appropriate to focus the nation's attention upon the problem of youth violence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 25, 1994, to May 1, 1994, is designated as "Let's Stop Kids Killing Kids Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

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.

GENERAL LEAVE

Mr. WYNN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Joint Resolution 360, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, the gentlewoman from Kansas [Mrs. MEYERS] is recognized for 60 minutes as the minority leader's designee.

WELFARE REFORM

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to talk today about the subject of welfare reform. I have a bill that I have introduced, which is H.R. 1293. I would like to start out by telling you all a statistic which I think is a startling statistic. At least it amazed me.

By the year 2000, 80 percent of minority children and 40 percent of all children will be born illegitimate in the United States.

I would like to tell you another statistic which I think is significant. If you graduate from high school, if you get married, and you do not have your first child until you are 20, of that group, only 8 percent live in poverty. But if you do not graduate from high school, if you do not get married, and if you have your first child as a teen, 80 percent of that group live in poverty.

Now, our policies I think in this country have encouraged illegitimacy and have encouraged poverty. These policies were enacted with the best of intentions. They were enacted to assist people, to help people. But it did not work out that way. And I think it is time to admit that we are doing something very, very wrong in this country and change the way that we are doing things.

Now, a number of us have thought about this a great deal. To have a good welfare reform bill, it should cost less, not more. If someone tells you that they have a welfare reform idea but it is going to cost another $10 billion, it is probably not welfare reform. It is probably more of the same.

A good welfare reform bill should end the entitlement nature of AFDC. Now, I think most of the people who are listening probably are aware that an entitlement is a program where we describe certain parameters in the law. Then if you fit into those parameters, you are considered entitled to money.

There are three large entitlements in the AFDC welfare program: AFDC, food stamps, and Medicaid. Another large program, housing, is not an entitlement. So there are three large entitlements and the housing program that cost significant money with the AFDC population.

I think to have a good welfare reform program we have to end the entitlement nature of AFDC, because with an entitlement, the money just flows. We do not even appropriate specific amounts in Congress. It is just such sums as may be necessary, and the money just flows. So you can say we are going to have a program and there will be sanctions if AFDC recipients do not live up to the terms of this pro-

gram. But if the money just flows anyway, somehow sanctions never really fall. Also a good welfare reform program should address the problem of teenage pregnancy, and it should address the problem of paternal identification.

I am going to tell you what my bill does, and then talk a little bit more generally about the problem.

My bill would freeze AFDC right where it is. That ends the entitlement nature of AFDC. It would return AFDC in block grants to the States and give the States absolutely maximum flexibility in what they do, because all of the good things that are happening in welfare, all of the good ideas, are coming from the States.

We ought to give this block of money to the States and give them maximum flexibility with only two mandates. Those mandates would be no AFDC unless and until both parents are 18, and no AFDC at any age unless the father is absolutely identified.

□ 1430

And that does not mean, I guess it was Bill Jones. That means William J. Jones, born January 20, 1978, with a Social Security number or an address, so that we absolutely know who that person is.

What we have been saying to young women, and the reason I say no AFDC until both parents are 18, is because what we have been saying to young women in this country with our policies for a great many years is, if you will have two children with no man in the house, we will give you $500 a month AFDC, $300 a month food stamps. We will pay all your medical bills. We will find you a place to live and pay for it for about a third of you. We will send you to a college or a training school to help get you off welfare. We will give you $200 a month child care while you are taking that college or training school, and we will give you $25 a month transportation round trip.

Now, if you are a mature person, you know that that is not a lot of money and it is not going to be a great life, although it is $18,000 a year. But if you are 14 and you want to get out of the house and you are under some boyfriend pressure and some peer pressure and you wanted something to love, you are liable to take that offer and by 15 you are pregnant and by 16 you are caught in that welfare trap for the rest of your life.

I think the other mandate, no AFDC unless the father is absolutely identified, is because what we say now to young men is, and what we have been saying for many years, is go ahead, walk away from this program. We will take care of this for you. And with my bill, what we would be saying is, if you have no money, we will help this woman and this child. But we know exactly who you are and when you are earning $15,000 or $20,000 or $5000 a year, we are going to have a part of that for every child that you have fathered.

I think this is not a harsh bill. It is a bill that attempts to get people to take responsibility for their own children. Again, let me repeat what it does, because some people have said it sounds harsh.

It freezes one of the entitlements. Does not cut it, freezes it. It says that the States will have maximum flexibility to design their own programs. It says, no AFDC unless both parents are 18. It does not take away food stamps, does not take away Medicaid. And it says, no AFDC at any age until we absolutely know who the father is. And I do not think it is a harsh bill at all. I think it is a bill that will allow a great many people, 5 million families in the United States, it will allow a great many people to have a better life and to create a better environment in which to raise their children.

Now, you are going to hear a great deal from the President about, let us make people work and 2 years and out and that sounds very good. And you have heard that it takes a while to explain my program, but I have noticed if you say to a room full of people, let us make people work, everybody thinks that sounds so good and they applaud. But the truth is, we have tried this once. And it did not work.

In 1988, we fashioned a welfare bill that said we will have a work training program, a job readiness program, a job search program. We will pay child care. We will pay transportation. And everybody will go to work. And I waited and I watched for 5 years.

It was supposed to cost $3 billion. We predicted in 1988, it would cost $3 billion. And it cost $13 billion. And less than 1 percent of the welfare population is working. And now the President is talking about doing exactly this same thing again.

He says it would cost $10 billion over the next 5 years. And he is talking about funding it in a variety of ways. He talked about a gambling tax, and he talked about a tax on annuities. And he talked about taking away veterans' benefits. He has talked about taking away benefits from higher income farmers. He has talked about a variety of ways. The thing is, he is taking benefits away from working people in most of these instances in order to pay $10 billion more for a program that we know has failed.

In 1988, we predicted this program is going to be successful. And at the end of 1998, we will have 5 million families on welfare. We hit that goal in early 1993. When you make the program better, when you add something to it, people flood onto the program. They came onto the program infinitely faster than we thought they would. They took all the programs and no one went to work.

My bill would save $6 billion to $8 billion over the next 5 years. The President's would cost $10 billion over the next 5 years. That is a $16 to $18 billion difference that I think we could use in a variety of ways in this country and ways that would help people in a much more meaningful way than a work program that has failed once before.

Now, I strongly believe in work programs. I come from the Midwest. We have a very strong work ethic there. But we have proved already that Federal work programs do not work. And the State statistics show that our federally-mandated plan does not work.

Why? We live in a huge diverse country, and one of the reasons why a federally-mandated program does not work, I think, is because what works in New Jersey does not necessarily work in Kansas. Just think about the difference between Miami, FL and Billings, MT. I mean, it is a tremendous difference in this country. And when we try to overlay two huge, new entitlements, a work program and a day care program, on the country, it does not work very well.

The second reason a federally-mandated program does not work is because I believe you have to end the entitlement nature of AFDC in order to have any program work. Because as long as the money just continues to flow, no matter what you say, the sanctions never fall. The money just continues to flow, and that is what happened in 1988.

I think a third reason why State programs work much better than Federal programs is because the States can target these programs better. We know where the problems are in Kansas. We know the areas where there are jobs available, but we might need training programs to get people fitted for those jobs. We know where there are areas of high teenage pregnancy, and we do not so much need work programs as we need teenage pregnancy programs. We know where there are areas where maybe there are not jobs available, and you have to work with city or county governments and get people to work at jobs that the city and the country needs done and that they would be willing to assist in paying for them, working in the State.

□ 1440

I think it is time that we changed the way that we are doing things currently, that we not reauthorize a failed work program and day care program, and that we end the entitlement nature of AFDC, give more flexibility to the States, say no AFDC unless and until both parents are 18, and no AFDC at any age until the father is absolutely identified.

Why is this important to all of us? Why is this important to my constituents? I think it is terribly important because you are paying for it in so

many ways. You are paying for it in more ways than you probably realize. All studies show that AFDC children, welfare children, have lower test scores, are more involved in crime, and have more physical illnesses. I am not saying in any way that AFDC children are inherently bad. Certainly they are not. I am not saying that a great many of them are not successful. Many of them are.

I am saying that studies show that these children are much more subject to lower test scores, to being involved in crime, and to physical illnesses. This is a great cost to society.

In addition to that, I would like to tell the Members about the total cost of this program. These are only Federal figures, and two of the programs are matching Federal and State, so this is by no means the total cost. However, AFDC itself is $16 billion. The AFDC population is responsible for 20 percent of Medicaid. The rest goes to low income families and to the elderly in the nursing homes. The AFDC population is responsible for 20 percent of Medicaid, for 55 percent of food stamps, for 30 percent of housing, for virtually all of a number of smaller programs: Head Start and WIC.

When we put all of that together, the annual cost to the U.S. taxpaying citizens is $70 billion. The cost of welfare is not going to go away, I don't care what we do, and certainly we want to help people, I want to help people that need help, but the program is a runaway program. We have to stop it and get some kind of control of it.

I ask Members to think, if we only reduce that $70 billion cost by 10 percent a year, we would have an extra $7 billion that we could utilize to help people in much more meaningful ways. In addition to that, we would not be reauthorizing a work program and a day care program that we know has failed and that would cost $10 billion.

I think it is time to change the way we are doing things. I hope that all of my colleagues who are listening today will support and cosponsor H.R. 1293.

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. DREIER] is recognized for 30 minutes.

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. WYNN) to revise and extend their remarks and include extraneous matter:)

Mr. OWENS, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Mr. ARMEY.
Mr. KIM.
Mr. LIVINGSTON.
Mr. GOODLING.
Mr. SAXTON.
Mr. FIELDS of Texas.
Mr. MICHEL.
Mr. GILMAN.
Mr. ROTH.

(The following Members (at the request of Mr. WYNN) and to include extraneous matter:)

Mr. GORDON.
Mr. COPPERSMITH.
Mr. ANDREWS of New Jersey.
Mr. POSHARD.
Mr. CLAY.
Mr. KILDEE in two instances.
Ms. NORTON.
Mr. ACKERMAN.
Mr. HUGHES.
Mr. DE LUGO in two instances.
Mr. HOYER.
Mr. DIXON.

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Mr. KREIDLER.
Mr. BEILENSON.
Mr. CUNNINGHAM.
Mr. STARK.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 540. An act to improve the administration of the bankruptcy system, address certain commercial issues and consumer issues in bankruptcy, and establish a commission to study and make recommendations on problems with the bankruptcy system, and for other purposes; to the Committee on the Judiciary.

S. 725. An act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; to the Committee on Energy and Commerce.

S. 1904. An act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals; to the Committee on Veterans' Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2884. An act to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 2005. An act to make certain technical corrections, and for other purposes.

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week."

ADJOURNMENT

Mrs. MEYERS of Kansas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 45 minutes p.m.) under its previous order, the House adjourned until Thursday, April 28, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3049. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3050. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3051. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3052. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3053. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled, "Military Construction Authorization Act for Fiscal year 1995," pursuant to 31 U.S.C. 1110; to the Committee on Armed Services.

3054. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation entitled, "Housing Choice and Community Investment Act of 1994"; to the Committee on Banking, Finance and Urban Affairs.

3055. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report regarding Poland consistent with section 8(b)(3) of the Arms Export Control Act, as amended, and section 11(b)(3) of the Export Administration Act of 1979, as amended; to the Committee on Foreign Affairs.

3056. A letter from the Director, U.S. Trade and Development Agency, transmitting the Agency's first annual audit to the Congress, pursuant to 22 U.S.C. 2421(e)(2); to the Committee on Foreign Affairs.

3057. A letter from the Chairman, National Labor Relations Board, transmitting a re-

port on activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552; to the Committee on Government Operations.

3058. A letter from the Secretary of Veterans Affairs, transmitting a report on activities under the Freedom of Information Act for calendar year 1993, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3059. A letter from the Chairwoman, Mid-Dakota Rural Water System, transmitting the Mid-Dakota Rural Water System final engineering report, January, 1994; to the Committee on Natural Resources.

3060. A letter from the Attorney General, Department of Justice, transmitting the fiscal year 1993 annual report of the Board of Directors of Federal Prison Industries, Inc., pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

3061. A letter from the Attorney General, Department of Justice, transmitting the annual report covering the 12-month period ended September 30, 1993, on the activities of the Federal courts under this Equal Access to Justice Act of 1980, pursuant to 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

3062. A letter from the Administrator, Environmental Protection Agency, transmitting the national water quality inventory report for 1992, pursuant to 33 U.S.C. 1315(b)(2); to the Committee on Public Works and Transportation.

3063. A letter from the Deputy Administrator, General Services Administration, transmitting informational copy of the report of building project survey for Dallas, TX, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3064. A letter from the Administrator, General Service Administration, transmitting informational copies of prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3065. A letter from the Administrator, General Services Administration, transmitting informational copies of the fiscal year 1995 General Services Administration's [GSA's] Public Building Service [PBS] Acquisition of Facilities Program, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3066. A letter from the U.S. Trade Representative, transmitting a report on recent developments regarding implementation of section 301 of the Trade Act of 1974, pursuant to section 309(a)(3) of the Trade Act of 1974; to the Committee on Ways and Means.

3067. A letter from the General Counsel of the Navy, transmitting a draft of proposed legislation to authorize the transfer of 17 naval vessels to certain foreign countries, pursuant to 10 U.S.C. 7307(b)(1); jointly, to the Committees on Armed Services and Foreign Affairs.

3068. A letter from the Secretary, Department of Energy, transmitting the first annual report on building energy efficiency standards activities, pursuant to Public Law 102-486, section 101(a) (106 Stat. 2786); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

3069. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation entitled, "National Defense Authorization Act for Fiscal Year 1995," pursuant to 31 U.S.C. 1110; jointly, to the Committees on Armed Services, Education and Labor, Post Office and Civil Service, the Judiciary, Ways and Means, Energy and Commerce, and Foreign Affairs.

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. 2442. A bill to reauthorize appropriations under the Public Works and Economic Development Act of 1965, as amended, to revise administrative provisions of the act to improve the authority of the Secretary of Commerce to administer grant programs, and for other purposes; with amendments (Rept. 103-423, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD (of Michigan): Committee on Education and Labor. H.R. 4250. A bill to authorize appropriations for fiscal years 1995 through 1998 to carry out the Head Start Act and the Community Services Block Grant Act, and for other purposes; with amendments (Rept. 103-483, Pt. 1). Ordered to be printed.

Mr. DELLUMS: Committee on Armed Services. H.R. 1432. A bill to establish missions for Department of Energy research and development laboratories, provide for the evaluation of laboratory effectiveness in accomplishing such missions, and reorganize and consolidate Department of Energy technology transfer activities, and for other purposes; with an amendment (Rept. 103-484, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GLICKMAN:

H.R. 4299. A bill to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. SCHUMER (for himself, Ms. SCHENK, Mr. MCDERMOTT, Ms. PELOSI, Ms. WATERS, Mr. REYNOLDS, Mr. STARK, Mr. DEUTSCH, Mr. ACKERMAN, Mr. BERMAN, Mr. EDWARDS of California, and Mr. FRANK of Massachusetts):

H.R. 4300. A bill to prevent handgun violence and illegal commerce in firearms; to the Committee on the Judiciary.

By Mr. DELLUMS (by request):

H.R. 4301. A bill to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

By Mr. MCCURDY (for himself and Mr. HUNTER) (both by request):

H.R. 4302. A bill to authorize certain construction at military installations for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

By Mr. KREIDLER (for himself, Mr. SWIFT, Mr. DICKS, Mrs. UNSOELD, and Ms. CANTWELL):

H.R. 4303. A bill to provide for a change in the exemption from the child labor provisions of the Fair Labor Standards Act of 1938 for minors between 16 and 18 years of age who engage in the operation of automobiles and trucks; to the Committee on Education and Labor.

By Mr. SOLOMON (for himself and Mr. HUTTO):

H.J. Res. 361. Joint resolution to designate the year of 1995 as the Year of the American Flag; to the Committee on Post Office and Civil Service.

By Mr. TOWNS (for himself, Mrs. BYRNE, Ms. COLLINS of Michigan, Ms. MARGOLIES-MEZVINSKY, Mrs. MORELLA, Ms. NORTON, and Mr. PAYNE of New Jersey):

H. Con. Res. 243. Concurrent resolution expressing the sense of the Congress that any legislation that is enacted to provide for national health care reform should provide for compensation for poison control center services, and that a commission should be established to study the delivery and funding of poison control services; to the Committee on Energy and Commerce.

By Mr. STUDDS:

H. Res. 412. Resolution providing for the concurrence by the House with an amendment in the amendment of the Senate to the amendment of the House to S. 1636; considered under suspension of the rules and agreed to.

By Mr. BOUCHER:

H. Res. 413. Resolution providing for the concurrence by the House with an amendment, in the amendment by the Senate to bill H.R. 1727; considered under suspension of the rules and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

356. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to public water supply systems; to the Committee on Energy and Commerce.

357. Also, memorial of the Legislature of the State of Minnesota, relative to desecration of the flag; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 431: Mr. BECERRA.

H.R. 790: Mr. TRAFICANT and Mrs. JOHNSON of Connecticut.

H.R. 814: Mr. WHEAT, Mr. MCINNIS, and Mr. WYDEN.

H.R. 967: Mr. FARR.

H.R. 1174: Mr. WOLF.

H.R. 1276: Mr. THOMAS of Wyoming.

H.R. 1304: Mr. MCHALE.

H.R. 1489: Mr. GUTIERREZ.

H.R. 1961: Mr. POMEROY and Ms. ENGLISH of Arizona.

H.R. 2467: Mr. BONIOR, Mr. EDWARDS of Texas, Mr. EHLERS, Mr. FALEOMAVAEGA, Mr. FRANK of Massachusetts, Mr. HAMILTON, Mr. MCCOLLUM, Mr. PALLONE, and Ms. PELOSI.

H.R. 2543: Mr. BONIOR.

H.R. 2720: Ms. FURSE, Mr. VENTO, Mr. GEJDENSON, Mrs. THURMAN, and Ms. SCHENK.

H.R. 2872: Mr. THOMAS of California and Mr. RAVENEL.

H.R. 2888: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FRANK of Massachusetts, Mr. MENENDEZ, Mr. FILNER, Mr. LEWIS of Georgia, Mr. GORDON, Mr. SMITH of New Jersey, Mr. GEJDENSON, Mr. SANDERS, Mr. JOHNSON of South Dakota, Mr. OWENS, Mr. DICKEY, Mr. WOLF, and Mrs. FOWLER.

H.R. 3088: Mr. GLICKMAN, Mr. POMEROY, and Mr. KLINK.

H.R. 3125: Mr. GEKAS.

H.R. 3288: Mr. KREIDLER and Mr. NUSSLE.

H.R. 3309: Mr. KILDEE, Mr. LIPINSKI, Mr. RUSH, Mr. EVANS, Mr. SCHAEFER, Mrs. UNSOELD, Mr. SKAGGS, and Mr. BONIOR.

H.R. 3386: Mr. CALLAHAN, Mr. COLLINS of Georgia, Mr. HAYES, Mr. DICKEY, Mr. SCHIFF, and Mr. RICHARDSON.

H.R. 3407: Mr. SUNDQUIST, Mr. PAYNE of Virginia, Mr. LIGHTFOOT, Mr. DORNAN, Mr. WATT, Mr. HUNTER, Mr. CALLAHAN, Mr. PETRI, and Mr. SMITH of New Jersey.

H.R. 3490: Mr. CRAPO, Mr. DARDEN, Mr. GLICKMAN, and Mr. SARPALIUS.

H.R. 3508: Mr. VENTO.

H.R. 3527: Mr. BORSKI and Mr. ENGEL.

H.R. 3658: Mr. CUNNINGHAM.

H.R. 3790: Mr. OBERSTAR.

H.R. 3810: Mr. SYNAR.

H.R. 3814: Mr. JOHNSON of South Dakota and Mr. GALLEGLY.

H.R. 3992: Mr. MCCANDLESS and Mr. THOMAS of Wyoming.

H.R. 4056: Mr. JOHNSON of South Dakota, Mr. KNOLLENBERG, Mr. HANCOCK, Mr. HOLDEN, Mr. DARDEN, Mr. HILLIARD, Mr. GRANDY, and Mr. WILSON.

H.R. 4089: Mr. LIPINSKI and Mr. MILLER of California.

H.R. 4091: Mr. FORD of Tennessee.

H.R. 4100: Mr. UPTON.

H.R. 4106: Mr. ACKERMAN, Mr. NEAL of Massachusetts, Mrs. LLOYD, Mr. DEFAZIO, Mr. FROST, Mr. GUNDERSON, Mr. GEJDENSON, Mr. STUPAK, and Mr. JEFFERSON.

H.R. 4142: Mr. SAXTON.

H.R. 4146: Mrs. FOWLER.

H.R. 4189: Mr. PETE GEREN of Texas, Mr. EHLERS, and Mr. PENNY.

H.R. 4250: Mr. MINETA, Mr. OWENS, Mr. HILLIARD, Mr. DINGELL, and Mr. SHARP.

H.J. Res. 44: Mr. CANADY and Ms. SNOWE.

H.J. Res. 276: Mr. PETRI, Mr. PRICE of North Carolina, Mr. DEFAZIO, Mr. MATSUI, Mr. KLINK, Mr. SWETT, Mr. LEHMAN, and Mrs. THURMAN.

H.J. Res. 297: Mr. LANCASTER and Mr. VENTO.

H.J. Res. 302: Ms. SCHENK, Mr. SKELTON, Mr. SLATTERY, Mr. LEHMAN, Mr. BOUCHER, Mr. ROSE, Mr. POMEROY, Mr. CASTLE, Mr. MANTON, Mr. ORTON, Mr. KENNEDY, Mr. JOHNSON of Georgia, and Mr. MORAN.

H.J. Res. 303: Mr. CLYBURN, Mr. SCHAEFER, Mr. ROWLAND, Mr. LANCASTER, Mr. SMITH of Texas, Mr. BREWSTER, Mr. PORTER, and Mr. HOYER.

H.J. Res. 305: Mrs. MEYERS of Kansas, Mr. WALSH, Mr. KLEIN, Mr. LANTOS, Mr. UNDERWOOD, Mrs. JOHNSON of Connecticut, and Ms. WOOLSEY.

H.J. Res. 334: Mr. FOGLIETTA, Mr. HUGHES, Mrs. MALONEY, Mr. MANTON, Mrs. MEEK of Florida, Mr. NADLER, Mr. OWENS, Mr. QUILLEN, Mr. REYNOLDS, Mr. STUDDS, and Mr. VENTO.

H.J. Res. 338: Mr. DUNCAN, Ms. ESHOO, Mr. FALEOMAVAEGA, Mr. TANNER, Mr. WILSON, Mr. SABO, Mr. KOPETSKI, and Mr. FROST.

H.J. Res. 342: Mr. BALLENGER, Ms. SNOWE, Mr. ANDREWS of New Jersey, Mr. SISISKY, Mr. MCINNIS, Mr. ROGERS, Mr. BURTON of Indiana, Ms. PRYCE of Ohio, Mr. BAKER of California, Mr. ARCHER, Mr. HOYER, Mrs. MINK of Hawaii, Mr. SERRANO, Ms. DELAURO, Mr. BUNNING, and Mr. FALEOMAVAEGA.

H. Con. Res. 148: Mr. HOCHBRUECKNER, Mr. TALENT, Mr. TOWNS, and Mr. GIBBONS.

H. Con. Res. 202: Mr. CLYBURN and Ms. LONG.

H. Con. Res. 209: Mr. BARRETT of Wisconsin.

H. Con. Res. 212: Mr. DELLUMS, Mr. DURBIN, Mr. GONZALEZ, Mr. HUGHES, Mr. PASTOR, Ms. ROYBAL-ALLARD, and Mr. TORKILDSEN.

H. Con. Res. 234: Mr. ACKERMAN, Mr. DEUTSCH, Mr. FRANK of Massachusetts, Mr. HUGHES, Mr. MCDERMOTT, Mr. MORAN, and Mrs. UNSOELD.

H. Res. 155: Mr. PICKETT.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3221

By Mr. BEREUTER:

—Page 2, strike line 23 and all that follows through line 3 on page 3 and insert the following:

(d) PRIORITY CLAIMS.—Before deciding any other claim against the Government of Iraq, the United States Commission—

(1) shall decide all pending non-commercial claims of members of the United States Armed Forces and other individuals arising out of Iraq's invasion and occupation of Kuwait or out of the 1987 attack on the USS Stark; and

(2) then shall decide all pending claims based on obligations under a letter of credit opened by the Government of Iraq before August 2, 1990, for the benefit of a United States person if the property which is the subject of the transaction underlying the letter of credit was not in the possession or control of the exporter on or after August 2, 1990, and the documents required under the letter of credit were accepted by the advising bank, the paying bank, the reimbursing bank, or the issuing bank before August 2, 1990.

As used in paragraph (2), the term "United States person" includes any United States citizen or permanent resident alien or any juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign subsidiaries or branches of such juridical persons.

—Page 7, line 4, strike "2(d)" and insert "2(d)(1)".

—Page 7, after line 5, insert the following:

(3) For each claim that has priority under section 2(d)(2)—

(A) payment from time to time in ratable proportions on account of the unpaid balance of the principal amount of the award according to the proportions which the unpaid balance of such awards bear to the total amount in the appropriate claims fund that is available for distribution at the time such payments are made, and

(B) after payment has been made of the principal amount of all such awards, pro rata payments on account of accrued interest on any such awards as bear interest,

except that the total amount paid with respect to such claims under this paragraph shall not exceed $50,000,000.

—Page 7, line 6, strike "(3)" and insert "(4)"; line 13, strike "(4)" and insert "(5)"; and line 17, strike "(5)" and insert "(6)".

—Page 7, line 12, before the period insert ", except that payment shall not be made under this paragraph on account of any claim payable under paragraph (3)"; and line 16, before the period insert ", except that payment shall not be made under this paragraph on account of any claim payable under paragraph (3)".

H.R. 3221

By Mr. BONIOR:

—Page 12, after line 15, add the following:

SEC. 11. HUMANITARIAN ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) Saddam Hussein has been condemned by the international community for his unwillingness to take the steps necessary to provide for the basic humanitarian needs of the Iraqi people;

(2) dire shortages of food, medicine, and basic medical supplies (including insulin, anesthetics, and antibiotics) have resulted in a continuing humanitarian disaster in Iraq, including massive human suffering and the death of hundreds of thousands of innocent Iraqi civilians during the past 4 years;

(3) this humanitarian tragedy is occurring throughout Iraq;

(4) the United States has a long history of providing humanitarian assistance to alleviate human suffering in many parts of the world; and

(5) the United States Agency for International Development has the authority under chapter 9 of part I of the Foreign Assistance Act of 1961 (relating to international disaster assistance) and other provisions of law to provide assistance to address humanitarian needs throughout Iraq.

(b) STATEMENT OF CONGRESSIONAL POLICY.—It is the sense of the Congress that—

(1) the United States should immediately provide additional humanitarian assistance, particularly medicine and medical supplies, to alleviate the humanitarian disaster throughout Iraq;

(2) such assistance should be provided through independent nongovernmental organizations and through international organizations so that this desperately needed assistance can reach all areas of need, in particular those outside the United Nations protected areas; and

(3) the costs of such assistance should be reimbursed from any available Iraqi resources, including the Iraqi assets that have been blocked pursuant the International Emergency Economic Powers Act so long as such reimbursement does not reduce the amount paid on those priority claims of members of the United States Armed Forces and others described in section 2(d) of this Act and does not delay payment on those claims.

SENATE—*Tuesday, April 26, 1994*

(Legislative day of Monday, April 11, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

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

Let us pray:

Forgiving God, keep us mindful of the potential arrogance of power and how it can destroy trusted leadership. As the Old Testament says concerning Uzziah, King of Judah, *As his power increased, his heart grew proud, and this was his ruin.*—II Chronicles 26:16, Jerusalem Bible.

Gracious Father in Heaven, at a time when cynicism and distrust are epidemic, send us spiritual and moral renewal, and let it begin with leadership. Humble us, Lord, before it is too late. Restore to us the dream of our Forefathers, the trust in God that generated that dream, and forbid that we should be willing to settle for anything less.

In the name of Truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 26, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Alaska [Mr. MURKOWSKI], is recognized to speak for up to 15 minutes. The Chair recognizes the Senator from Alaska.

U.S. FOREIGN POLICY

Mr. MURKOWSKI. Good morning, Mr. President. I appreciate your greetings this morning. It is a lovely day out there. I am afraid I have a little hay fever, but, obviously, survival is the instinct we all have, so I will defer to my prepared remarks.

Mr. President, I would like to speak briefly today on matters concerning our country's foreign policy. I am particularly concerned over a number of issues that have been brought up on this floor of late, but I think nothing presents more of a threat to world peace than the current situation in North Korea.

I find a rather curious set of circumstances associated with our policy in encouraging the North Koreans to abide by the international atomic inspection agency. It is rather interesting to note that, back in 1992, the North Koreans signed the Nuclear Non-Proliferation Treaty Safeguards Agreement which requires regular inspections of its nuclear facilities. But 2 years have elapsed without the North Koreans ever fully complying with the mandates of the treaty. The North Koreans allowed the IAEA [International Atomic Energy Agency] to conduct sporadic inspection in 1992, but then flatly denied the IAEA permission to inspect the suspected nuclear sites in late 1992.

In early 1993, North Korea announced its intention to withdraw from the Nuclear Non-Proliferation Treaty. At this point the United States initiated negotiations with the North Koreans, on behalf of the South Koreans and the international community. The Clinton administration has held two rounds of high-level negotiations with the North Koreans over the last year.

The question I have is whether these negotiations have moved us any closer to a resolution of this dangerous problem? In my view, they have not. It has been more than 1 year since North Korea threatened to pull out of the Nuclear Non-Proliferation Treaty, and IAEA inspectors have not successfully completed any inspection of either the seven declared nuclear sites or the two undeclared nuclear sites.

The bottom line is that the North Koreans have not complied with their obligations. We have lost some 2 years—1992 through 1994—during which there has been a series of excuses, a series of negotiations, but no concrete results to show. Time has passed and the North Koreans have gained valuable time to develop their nuclear arsenal. To what extent they have developed that capacity to date, obviously, we have no public knowledge—because of the lack of inspections. But we do have intelligence reports that suggest that they have, indeed, embarked on achieving a nuclear capability.

My criticism of the administration's policy is that they have offered the North Koreans concessions to encourage them to comply with their obligations, but have not been effective in mandating compliance. It has been an approach of all carrots and no stick. In response to North Korean demands, the United States agreed to high-level talks, suspended joint military exercises with the South Koreans, and delayed sending Patriot missiles to South Korea. In return, the North Koreans have refused inspections, delayed the visas for IAEA inspectors, and then denied the inspectors the access requested to verify nuclear activity.

To the administration's credit, it did send the Patriot missiles after the North Koreans refused to allow full access to the IAEA inspectors.

However, just last week Defense Secretary William Perry announced that the joint military exercises would again be delayed as a "gesture of good will" to the North Koreans. It seems to me it should be the North Koreans who should be making a gesture of good will by allowing IAEA inspectors to complete their inspections.

The U.S. problem seems to be a lack of leverage. The United States has no trade or diplomatic ties with North Korea. If we look at those countries that have leverage with North Korea through commercial and other relations with North Korea, then we are faced with the reality that we have to depend, to a large degree, on China and Japan to exert pressure on North Korea.

China provides North Korea with about 75 percent of its oil and a goodly portion of its food, somewhere in excess of 70 percent. The appropriateness of our encouraging the People's Republic of China to encourage the North Koreans to comply with the international inspection teams seems quite reasonable, but, indeed, we seem to have run

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

afoul of the ability to use our leverage with China.

I am referring, of course, to the continuing rift that we have with the PRC over our demands that China show more advancement in human rights activity and their response that this is an internal matter within the purview of the People's Republic of China.

So as a consequence, Mr. President, we are somewhat at a loss to utilize our leverage on China. In June, the administration faces the decision of whether to renew most-favored-nation status for the PRC. There will likely be an extended debate before this body on this issue. But in the meantime we are left with a situation where we would like China to exert its influence, but China has not seen fit to do so, and the administration has not pushed them on the point. Time marches on, and the North Koreans continue to develop a nuclear capability.

Our friends in Japan are also trading partners, to some extent, with North Korea. Various reports indicate that between $600 million and $1.2 billion of foreign currency enters North Korea from Japan. Curiously, it comes from the operation of the Pachinko parlors in Japan. Pachinko is a game that many Japanese play during their leisure hours. But surprisingly enough, most of these Pachinko parlors are owned by North Koreans who have lived in Japan for an extended period of time. They have funneled the proceeds back to North Korea, and this represents a significant supply of foreign capital for the North Koreans.

Why can we not simply ask our friends in Japan to exert their influence in encouraging the North Koreans to agree to inspections? One of the problems there, as you might imagine, Mr. President, is that we have threatened sanctions in trade matters against Japan. In addition, Japan is, again, going through a change of government. So our influence there is limited as well.

Again, I want to highlight the reality that time passes.

Because our policy has had no teeth, the North Koreans have reached a greater ability to develop whatever nuclear capability they would like to achieve.

I do not think it is appropriate that our Nation use a soft approach on North Korea. I think the North Koreans have observed our inconsistencies to the point that they feel that we do not mean business. As evidence, they continue to stall and continue to buy time to develop this capability.

So, Mr. President, I think we should go back and revisit our foreign policy with regard to how and through what means we are going to urge the North Koreans to curtail their commitment to develop a nuclear device. If that means calling on our allies with greater firmness and more meaningful demands, then I think we should do so. The North Koreans should understand that the United States will no longer maintain a policy of inconsistency with regard to an issue that is so important to peace and prosperity for the whole world.

Of course, with the threat of a nuclear capability in the hands of the North Koreans, one can only suspect what their objective might be. One thing is certain, Mr. President. I know you will recall the uncertainty associated with the Government of North Korea. This is the same regime that assassinated 16 members of the Cabinet of South Korea. This is the same regime that sanctioned the terrorist attack on Korean Air Flight 707 that killed 115 innocent victims.

We are dealing with people who have shown a track record of inconsistency, and as a consequence of that one can only imagine if they carry a nuclear capability what the prospects might be.

Mr. President, I have some additional points I would like to make to bring up to date my remarks concerning the situation in North Korea. This is a chronology of events that have occurred since last week.

The North Koreans have notified the International Atomic Energy Agency that they plan to remove nuclear fuel from their biggest reactor by early next month. The significance of that step is that it will allow the North Koreans to greatly expand their nuclear weapons arsenal unless the material is placed under strict international inspection. Thus, the North Koreans gain another bargaining chip.

It is also significant because the United States administration has told this Senator and others that the delay by the North Koreans has "not been harmful because their nuclear weapons program was frozen." Well, with the extraction of this the nuclear fuel, it is clear that the program is not frozen.

The North Koreans have indicated that they would allow inspectors to witness the withdrawals but the details of that are unclear. It appears that the North Koreans are trying to pressure the inspection agency into accepting conditions such as a limited 10-day visit. Inspectors have indicated that this would be insufficient time to complete the inspections that were ordered last month.

Further, the North Koreans are also demanding that the United States resume the third round of negotiations before allowing full inspections to go forward.

It is clear that the North Koreans continue to toy with us on this matter to the point that I think this body and its membership should express its indignation at the inconsistent manner in which we have dealt with North Korea.

DEATH OF FORMER PRESIDENT RICHARD NIXON

Mr. MURKOWSKI. Mr. President, I do want to take a moment to acknowledge and honor the passing of former President Richard M. Nixon. It has been stated in many of the television commentaries that he was one of the more complex figures in American politics over the last 40 years. I think historians will recognize him as a very perceptive statesman of the type we have not seen in many, many years.

He certainly had his share of triumphs and failures. But his legacy will be one, I think, of vision at both the national and international scale.

While he may have experienced shortsightedness when it came to events surrounding Watergate, he showed tremendous vision in foreign policy.

He was a friend of my State of Alaska. He visited Alaska in 1960 and 1966 and again in 1971. Alaska's current Governor, Walter Hickel, was appointed Secretary of the Interior by the late President Nixon. Nixon was also special to Alaska because he pushed the Eisenhower administration into signing the Alaska Statehood Act and attended the signing ceremonies.

During President Nixon's reign, the Alaska Native Claims Settlement Act was signed into law, and in a tie vote broken by Vice President Spiro Agnew legislation was passed establishing the Trans-Alaska Pipeline. So it was no surprise that he carried the State in the election of 1968 and again in 1972.

Flags are properly lowered to half-mast today in our Nation's Capitol and throughout our United States to pay respect to his passing. He will be remembered and missed by many of the silent majority that Richard Nixon championed. Our thoughts and prayers are with his daughters Julie Eisenhower and Tricia Cox as we remember this very important man in the history of America.

I thank the Chair.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska yields the floor.

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

The ACTING PRESIDENT pro tempore. The Senator from Alaska suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BURNS. Mr. President, might I inquire, what is the order of business?

The ACTING PRESIDENT pro tempore. The Senate is now in morning business.

Mr. BURNS. Mr. President, I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2044 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

HEAD START AND EARLY CHILDHOOD DEVELOPMENT AMENDMENTS OF 1993

Mr. CONRAD. Mr. President, I am here today to discuss our Nation's children and the people who care for them. Thursday, April 28, 1994, is "take-your-daughter-to-work" day. This is a day when parents are encouraged to bring their daughters to the workplace, therefore providing them with a view of the work opportunities available to them. Many job positions, particularly professional positions, have been historically viewed as "men's work" or "women's work." Thursday is therefore a day dedicated to demonstrating that employment positions are no longer dependent upon one's gender. It is a day to show that girls—as well as boys—should aspire to any job they desire. This year, take-your-daughter-to-work day is expected to include the participation of several million girls in not only the United States, but also in Africa, Japan, Ireland, Britain, and Puerto Rico. Additionally, some businesses, such as USA Today, are encouraging visits from employees sons, as well as daughters. This will hopefully lead to greater acceptance and understanding of all individuals in all employment positions while providing young people with firsthand knowledge about employment opportunities and responsibilities.

Mr. President, as well as actively combating gender discrimination in the workplace, our Nation also faces the challenge of providing adequate salaries for certain jobs. There are numerous difficulties in attracting high quality people to work with young children, particularly in Head Start and day care positions, because of the low wages associated with these professions. For this reason, early childhood professionals in North Dakota, including the North Dakota Association for the Education of Young Children, recognized April 21, 1994, as national "Worthy Wage Day"—a day designated to draw attention to the low compensation received by child care professionals.

Early education of children is an investment with huge social and economic returns. Since the 1960's, Head Start has been an important part of this investment. Head Start has proven to be one of the most successful Federal programs ever, distinguishing itself as an effective and cost-efficient way to build a solid foundation for learning for millions of American children.

I believe it is important to take action to ensure that this great American success story can continue and meet the challenges of the future.

For these reasons, Mr. President, I introduced the Head Start and Early Childhood Development Amendments of 1993 (S. 1193) on July 1, 1993. I am proud that portions of my bill, including provisions to upgrade Head Start employee benefits, were recently incorporated into the Head Start reauthorization bill, which will soon be considered by this body.

Head Start, however, is only one part of our continuing effort to ensure the future success of our children. We must also focus on the basic interaction between children and the people that care for them, whether in Head Start or day care.

Over the years, we have gained a better understanding of the development of the human brain. A recent New York Times article explains the results of studies in neuroscience that began as early as the 1960's. The experiments focused on the neural and cognitive development of the very young and their developmental process. The conclusion of these studies, not surprisingly, is that lack of stimulation leads to lack of neural development. It is now widely believed that newborns begin life with a profuse tangle of brain cells and synapses—a massive cerebral short circuit. Lack of stimulation in early life leads to a failure of synapses to connect. The Carnegie Corp. of New York published a report last week, discussing the relevance of these studies to children's development. If children do not receive adequate and appropriate stimulation in their early years, irreversible damage results, preventing them from developing their full potential.

Neglecting children and neglecting appropriate child care retards the mental development of our children.

We need to focus more energy on these issues because of the large number of single parent families and the high percentage of women in the work force. In my State of North Dakota, approximately 70 percent of women with preschool-aged children are in the work force. We must ensure that our children receive the care necessary for their full development. We must ensure that we attract high quality, well-trained people to the child care profession. The problem is that we do not pay child care professionals very well. This Nation needs to develop a benefits package, including retirement programs, to attract the best.

Mr. President, I ask unanimous consent that the April 17, 1994, article from the New York Times regarding the importance of appropriate care for children, especially very young children, be included in the RECORD immediately following my remarks.

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

IDEAS AND TRENDS; BUILDING A BETTER BRAIN FOR BABY

(By George Johnson)

In a series of classic experiments beginning in the early 1960's, neuroscientists subjected kittens to all kinds of strange childhoods. Some were raised with one eye sutured shut or covered by an opaque contact lens. Others were reared in a visual world consisting of nothing but vertical or horizontal stripes.

Then, all of a sudden, the veils were lifted. Normalcy prevailed. But from the point of view of the kittens, nothing had really changed. Eyes deprived of light in those first crucial days were now blind. Kittens raised in a vertical world were unable to see horizontal lines. They might as well have been asked to detect radio waves. For lack of stimulation, the neurological wiring—the connections, called synapses, that pass signals from neuron to neuron—had not developed.

Not all was lost, however. If the blinders were removed early enough, the brain would spring back from the deprivation. In a matter of days, new synapses sprouted. The blind eye would learn to see, the brain to comprehend perpendicularity. But if the scientists waited too long, the damage was irreversible. The window of development slammed shut forever.

Use them or lose them. This lesson about synapses—long known to neuroscientists—created a stir when it surfaced last week in a report by the Carnegie Corporation of New York about the plight of American children living in poverty.

Raising the frightening possibility that deprived infants are left with permanently stunted brains, the group called for more support for child care and preschool programs like Head Start; it asked for more liberal policies on family leave. Otherwise, the implication was, children were in danger of ending up like the kittens, neurologically walled off from all but a fraction of the world's informational riches.

The vast, gray expense of neuroscientific literature is full of studies that lend support to this grim possibility. Over the years, scientists have shown that rats raised in stimulating environments—a Coney Island of treadmills and tunnels, with fellow rodents joining in the fun—seem to develop a greater density of synapses—more connections—than those raised in duller surroundings.

In fact, it is now widely believed that newborns begin life with a profuse tangle of brain cells and synapses—a massive cerebral short circuit. Then, through a process of neural sculpting, the excess is pruned away. Neurons die, synapses become disconnected. How this topiary work comes out seems to depend on which circuitry is stimulated in the early years of life.

The implication, apt to incite anxiety among even the most attendant families, is that neglectful parents are guilty not only of a sin of omission—not providing enough mental stimulation—but of a sin of commission as well: fating their children to confront the world with underdeveloped brains. One can inflict permanent damage, it seems, without striking a blow.

Philosophers usually blame Descartes for the deeply ingrained assumption that there is an unbridgeable divide between the physical and the psychological, between the brain and the mind. We distinguish between hurting someone bodily and hurting someone mentally. Terrible as it is, psychological damage might be corrected, or so we like to believe. But if parental neglect closes off forever the sculpting of certain neural path-

ways, then the damage is as irreversible as that inflicted by malnutrition, foot binding or breakfasts of lead paint chips.

But before rushing off to buy another armload of videos or the latest educational toys, parents might pause to consider another study, also cited in the report, indicating that too much stress in the early years can unleash hormonal poisons that eat brain cells.

How do you distinguish between stimulation and stress? It is no doubt stimulating in the extreme to grow up next to a fire station or under the tracks of the El. In this regard, the most dangerous urban neighborhoods provide a more stimulating environment than placid suburbia. Can too much stimulation—all those spinning, bright cribside objects and mandatory nursery rhymes—result in its own kind of abuse?

These are the kinds of judgments that lie beyond the laboratory studies. For all the efforts of neuroscience, parenting seems likely to remain as much of an art as a science.

A TRIBUTE TO ERNIE ROYAL

Mr. LEAHY. Mr. President, Ernie Royal, one of Vermont's premier chefs and restaurateurs, died Sunday, March 13, at the age of 76. I would like to take a moment to pay my respects to his memory and offer my condolences to his wife of 56 years, Willa Cotton Royal.

Ernie spent years learning his trade, more years than most because he was black and opportunities to learn the food and hotel business as a young man growing up in Boston were limited.

But Ernie had a passion for restaurants and good food and fine service and it was a dream he pursued relentlessly, despite the cool reception he received from bankers unwilling to lend him necessary financing to start his own business in Massachusetts.

He moved to Vermont, where he hoped to be measured by his character and industry—and not the color of his skin.

He opened Royal's Hearthside Restaurant in Rutland in 1963, but his fame quickly spread beyond Vermont as food critics for some of the Nation's most prestigious magazines claimed him as their own personal discovery.

I often took my family to Royal's Hearthside—the food was terrific but you went there to see Ernie as well. He would always join us and the conversation would range from food to politics and business.

His death is a personal loss to our family—and we share the grief of Vermonters who knew him from the many local, regional, and State business councils and associations that he voluntarily gave his time and efforts.

I ask unanimous consent that the attached biography of Ernie Royal, which appeared in the Rutland Daily Herald Monday, written by Kevin O'Connor of that newspaper's staff, be printed in the CONGRESSIONAL RECORD as a final tribute to Ernie's memory.

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

[From the Rutland Daily Herald, Mar. 14, 1994]

RUTLAND'S ERNIE ROYAL DIES

HIS HEARTHSIDE A LOCAL LANDMARK

(By Kevin O'Connor)

Ernie Royal knew how to run a restaurant.

"Every single night you must feel like you're putting on a party, and you must feel like singing and dancing," he once said. "If you don't feel this way toward your customers, then you'll have problems with your restaurant."

Royal had no problems with his customers. Instead, he faced the obstacle of being a black man growing up in a closed, white world.

And so he opened the door. Starting as a dishwasher, he moved up to busboy, waiter, chef and finally owner and operator of Royal's Hearthside in Rutland. He had been his own boss for 30 years when he died Sunday at the Rutland Regional Medical Center. He was 76.

Royal was born in Boston in 1917. He acquired his taste for food early when, as a boy washing dishes at a Beacon Hill restaurant, he could eat all he wanted.

Determined to own his own restaurant, he plotted to learn everything he could about the business. He worked winters in Boston, summers in resort hotels outside the city. Friends helped him open doors usually closed to blacks.

A teacher at Boston College, for example, was also director of the Hotel Somerset. When Royal offered to work at the hotel for nothing in exchange for the education, the teacher consented.

"Going to the grand hotels was exciting for me when it was a 'no-no' for a black kid even to be inside a hotel," Royal told a reporter in 1979. "My mind was like a sponge. I wasn't nosing around at those places. I went there to learn."

His resume ranged from busboy at Boston's Parker House to chief cook for the U.S. Maritime.

Royal met Willa Cotton and married her in 1938. He worked as a chef, she worked as a baker. Together they put their savings into running a small cafe in Dorchester, Mass., starting in 1955.

When the line of lunch customers grew long, the couple went to the bank to buy the building. But the bank wouldn't loan them money.

Yes, the Royals were popular. But they also were black.

The Royals turned to Kingsley Smith of the Hartness House in Springfield, Vt. He pointed them to a restaurant in Rutland that had been closed for several years. The building was starved. So were the hundreds of hungry motorists who ran bumper to bumper at the nearby corner of Routes 4 and 7.

The restaurant reopened as Royal's Hearthside in 1963. It lived up to its name. Diners could see their food cooking on an open hearth. And Royal, in white chef coat and hat, could keep his eye on the entire dining room.

He served baked stuffed shrimp, boneless chicken, popovers and chowder. In return he received four stars from restaurant rating services, praise from Esquire, Holiday and Gourmet magazines and so many plaques he ran out of wall space.

When the WCAX-TV news team came to Rutland for a state bicentennial broadcast in 1991, weatherwoman Sharon Meyer was given the company credit card and instructions to make restaurant reservations at the best place in town.

"Royal's Hearthside?" she said minutes before 6. "We've got a crew of about a dozen. How about dinner at 7:30?"

Running a restaurant takes time and a toll. "My day begins with the Today show and ends with the Johnny Carson show late at night," Royal said in 1981.

The long hours were one reason he sold the restaurant in 1984, only to buy it back less than a year later.

"I am happiest when I am in the kitchen creating new menu items and developing new recipes," he said of his reconsideration. "I missed that activity after my short retirement."

Royal fought for better educational and employment opportunities for minorities as chairman of the human resources committee of the National Restaurant Association. He and his wife invited leading restaurateurs to Rutland in 1987 for a benefit dinner to establish a scholarship fund for minority students at the Culinary Institute of America.

Wrote Charles Bernstein, editor of The Nation's Restaurant News: "One man has done far more than anyone else in encouraging minorities to ascend from entry level positions upward through the industry. That man is none other than the sponsor of the dinner and of the entire effort, Ernie Royal, owner of Hearthside Restaurant."

Royal didn't discriminate when it came to helping other local restaurateurs. Frank Czachor first worked with Royal as a college student, then as maitre d' before moving on to become chef and owner of 121 West in downtown Rutland.

"He certainly had a clear mark on the restaurant industry in Rutland," Czachor said Sunday. "He put that dedication into the food industry and he instilled that into his help. I certainly looked up to him. You had to look at him for setting the standards."

Czachor visited Royal at the hospital last week. They talked about returning to Boston to sample restaurants.

"He was always looking for trends and seeing new things being done," Czachor says.

The Herald agreed in a 1984 editorial: "The Royals' success can be attributed not only to a quality operation but also to their reputation as innovators—a willingness to try new things and never to be satisfied with constant repetition of yesterday's ways and means."

And for Royal, that meant not being satisfied with such good words.

"We're trying to attract a younger group of people," he said in one of his last newspaper interviews. "You've got to realize that we are serving the children of area people that have been coming here for the past 20 years. It is important for us to get into the younger generation."

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal

spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,558,348,698,138.33 as of the close of business yesterday, Monday, April 25. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,484.30.

TRIBUTE TO CAMPBELLSVILLE COLLEGE STUDENTS—KENTUCKY STUDENTS HELP MISSOURI FLOOD SURVIVORS REBUILD

Mr. McCONNELL. Mr. President, I rise today to honor several students from Campbellsville College in Taylor County, KY. Members of the Baptist Student Union and several faculty members spent their spring break in Winfield, MO, about 40 miles from St. Louis, and just 2 miles from the banks of the mighty Mississippi River.

While other college students were enjoying the weather in various tropical locales, these young people were making a difference to the Winfield community which was ravaged by the great flood of 1993 almost a year ago. A levee broke under the tremendous pressure of the swollen Mississippi and ravaged the town of 700 citizens. Because of its proximity to the river and the force with which the water came, Winfield was hit as hard or harder than most every other town in the area.

Mr. President, we all understand what needs to be done structurally in areas of the Midwest which were hit by the flood. Buildings need to be rebuilt, bridges reconstructed, homes cleaned, and belongings salvaged. But it was more than the structural damage that the Campbellsville students found themselves dealing with.

The citizens of Winfield needed to rebuild themselves as much as they did their homes. The Campbellsville students met and interacted with the people of Winfield, and tried to help them regain some of the hope they had lost as a result of the devastation. Perhaps it as much for the spiritual and personal guidance these young people offered, as it is for the tremendous work they provided, that they will be remembered for years to come by the people of Winfield.

Mr. President, I ask my colleagues to join me in honoring this special group of young people from Kentucky. In a time when we are too often focused on our lives rather than the struggles of others, we can all learn from their example. In addition, I ask unanimous consent that an article detailing the accomplishments of this outstanding group be printed in the RECORD at this point as well as a list of the students involved in the effort to rebuild Winfield.

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

SPRING RAKE—COLLEGE STUDENTS HELP DISASTER VICTIMS

Editor's note: This was written by Marc C. Whitt, director of public relations and marketing at Campbellsville College.

"You all changed my town totally and I want to follow in your footsteps!"

Those were the words written by a 13-year old who expressed her appreciation toward 47 Campbellsville College students and staff who spent spring break not on the sunny beaches of Florida, but in the mud and debris of flood-stricken Winfield, Mo., a community located 40 miles northeast of St. Louis.

Several members of Campbellsville's Baptist Student Union and a few college staff traveled to Missouri March 11-17 to rebuild homes and lives wrecked by the Midwest's "Flood of '93."

Although homes received much attention from the group, lives crushed by the flood's destruction seemed to be what received the most repair, said Tiffani Merrick, a junior communications/psychology major from Nicholasville, Ky., who served as the mission trip coordinator.

"Before we went to Winfield, the people there told us that they wanted someone just to listen to them for a change," said Merrick.

According to Merrick, citizens of Winfield were disturbed that several governmental and non-profit agencies had come to their community and had quickly left without them being able to express their grief.

"They needed people to love them. Probably the most productive thing we did was to have real conversation with them," said Merrick. "This community was in such need when we arrived. Even though we arrived as strangers, they invited us into their lives.

"We treated them like people, not flood victims," she said.

Before the flood devastated Winfield, it was a town filled with more than 700 citizens. Today, only 592 remain in what was described by the Campbellsville group as a place where hopelessness lingers in the lives of those who still call Winfield home.

The town, which lies two miles from the banks of the Mississippi River, was reported to be one of the two hardest hit towns in Missouri. Much of that destruction resulted from a major levy which broke nearby.

From viewing pre-flood pictures of Winfield, Merrick said that the small town was once occupied by beautiful homes. "Today, trash and mud have made it into a slum. It's a sad, drastic change for one community to experience."

Rebecca Mishler, a junior from Dunnville, Ky., said the trip made a definite impact on her own life. "I tried to put myself in their shoes," she said. "These people have had a lot of bitterness bottled-up inside. There was a lot of devastation. We all asked each other, 'What if this had happened to our families?'"

One lady whom the group had met told about seeing her house and lifelong belongings swept away in a matter of seconds when the levy broke.

Mishler said that 80 percent of the homes in Winfield have been abandoned. "In spite of the destruction," she said, "we were there to offer them some hope."

According to Joan Stansbury of the college's Office of Campus Ministries, Winfield will never be the same following Campbellsville College's impact on the community.

"We did as much, if not more, spiritual rebuilding as physical rebuilding," said Stansbury.

Our students who worked with the Back Yard Bible Club noticed the hurt in the children's eyes. Once the children and adults saw that we sincerely cared about them, they were totally open with us.

Problems among the youth's population were abundant, said Merrick. Drugs, alcohol and sex had replaced what some might term as traditional small-town values and activities.

"Many of the kids told us that if you didn't have a car and some money for a trip to St. Louis, there wasn't much to do.

"Apparently, there are several cases of teenage pregnancy in the local school system, especially in the middle school," said Merrick.

In another story, Stansbury told of a 5-year old girl who had "fallen in love with our group."

"This little girl would bring her paint brush, gloves and box lunch every day to help us," said Stansbury. "She stayed with us all day long for two days. Her mother said she would get up the first thing in the morning to go to work."

That same 5-year old later asked Campbellsville student Richard Smith of Owensboro, Ky., if she could have his Bible.

Smith explained to her that his grandmother had given him this Bible and because of that, it meant a lot to him.

But Smith could see in her eyes how much she wanted it, so he gave it to her, said Stansbury.

Another situation, more than any other, moved Campbellsville's group.

"A rather rugged-looking man, who was in his early 40s, came to us in a special way," said Stansbury. "This man had long, stringy hair and wore dangling earrings. Just by his looks, I'm afraid many people wouldn't have helped him. But he *wanted* our help!

"Before the flood had destroyed his home, he had lived down by the levy in a house that stood on 12-foot high stilts.

"From the time he lost his house, he has been living in a house where six-feet of water once stood.

"He lived in filth. There was mold growing on mold. The smell was horrific.

"There were no walls inside, only stud frames. His carpets were filled with dirt and grime. The house was bearly livable.

"Campbellsville's students and staff came in and cleaned his house, painted his fence, cleaned the kitchen and bathroom spotless, vacuumed the carpet, told him how much God loved him and then we listened."

Stansbury said that in talking with him, the Campbellsville group discovered that he was on his second marriage and was presently separated from his wife.

After much prayer with him and for him, this man surrendered his life to Jesus Christ on the third night of a revival the Campbellsville College BSU was conducting for the community.

"He had several problems," said Stansbury, "Each night our group had 'family time' and had prayer for him and his wife. The third night before the service, we held prayer for him again. We had such a burden for this man.

"After we had worked so hard on his house, he just sat outside and stared at it, said Merrick. "He said he had to go outside and look at his mailbox to see if it really was his house," she said.

Proof of Campbellsville College's efforts were demonstrated in a video recorded by the Office of Campus Ministries.

Sue Healey, disaster relief coordinator for Winfield, said.

"I would never have wanted to be without you. You have brought such vitality and life

and the Spirit has come with you. Believe me, you have just changed things over there (East Winfield).

"The people that you have worked with * * * all the people you have touched over there, their hearts are singing. I know I speak for the pastor (Rev. Mark Miller, First Baptist Winfield), myself and Jamie Cox (disaster relief coordinator for First Baptist Church) when I say that we love you and it's more than the physical work you did, it's the impression and feelings that you are leaving with us * * *

"They have noticed some of the things that you have done and you have touched them spiritually and emotionally. You have made them stop and think. I've seen unity in that neighborhood that I have never seen before. You have brought people together.

"East Winfield is going to come back and believe me, you are the major part in this and have started us in the right direction."

Citizens from Winfield are planning to visit Campbellsville College next fall, according to Healey.

SPRING BREAK MISSION TRIP, WINFIELD, MO

1. Akers, Tree.
2. Amiet, Wendy.
3. Ashcraft, Patrick.
4. Barnes, Curtis.
5. Bell, Laura.
6. Borger, "CJ".
7. Borowick, Scott.
8. Bourne, Leigh Anne.
9. Brashear, David.
10. Bush, Kathleen.
11. Carlisle, Jason.
12. Choate, Stacey.
13. Edwards, Shelly.
14. Ford, Tara.
15. Fuller, Chuck.
16. Gardner, Jennye.
17. Gowin, Don.
18. Gowin, Sharon.
19. Hancock, Ira.
20. Hendley, Michelle.
21. Judd, Betty.
22. Lewis, Adam.
23. Marcum, Harold.
24. McKinney, Amanda.
25. Merrick, Tiffani.
26. Mishler, Becky.
27. Montgomery, Jay.
28. Morgan, Chris.
29. Morin, Wayne.
30. Pochodzay, Sharla.
31. Richardson, Dawn.
32. Sells, Lorraine.
33. Smith, Gene.
34. Smith, Rich.
35. Stansbury, Joan.
36. Stooksbury, Christal.
37. Talley, Jennifer.
38. Taylor, Mark.
39. Thompson, Amy.
40. Wakefield, Mark.
41. Ward, Jamie.
42. Ward, Shayla.
43. Watkins, Rusty.
44. Willoughby, Carl.
45. Wilson, Sarah.

WE THE PEOPLE . . .

Mr. WOFFORD. Mr. President, on April 30 to May 2, 1994, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of We the People . . . The Citizen and the Constitution program. I am proud to announce that the class from Hampton School in Allison Park, PA, will represent Pennsylvania. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the team representing Pennsylvania are:

Allison Bevan, Mike Cheskey, Pat Clements, Scott Hergenrother, Tina Ingenito, Nathan Joy, Ahmet Kilil, Jeff Kocan, Liz Kubinski, Carrie McCurdy, Mandy McTighe, Ryan Minister, Mike Ott, Ian Rudy, Myron Santos, Melissa Schramm, Steve Seman, Colleen Smith, Ann Spearline, Rob Taylor, Liberty Weyandt and Trininty Zang.

I would also like to recognize their teacher, Mr. Dean Longwell, who deserves much of the credit for the success of the team. The district coordinator, Jennie Lynn Knox, and the State coordinator, Dr. Robert Crist also contributed a significant amount of time and effort to help the team reach the national finals.

The We the People . . . The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the program, now in its 7th year, has reached more than 20,100,000 elementary, middle, and high schools nationwide. Members of Congress enhance the program by discussing current constitutional issues with both students and teachers. This year, the Thomas Jefferson Commemoration Commission will join the Center in making special presentations to the students in honor of Jefferson's legacy.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective of the significance of the U.S. Constitution and its place in our history and our lives. I wish them the best of luck in the national finals and look forward to their continued success in the years ahead.

PASSING OF PRESIDENT RICHARD M. NIXON

Mr. HATFIELD. Mr. President, we are saddened by the passing of Richard Nixon. Throughout his illustrious career, Richard Nixon was known as a statesman, peacemaker, and world leader. Up until the moment of his passing, he was on the threshold of new American thinking.

My first encounter with Richard Nixon was when he was a U.S. Senator from California attending the 1952 Republican National Convention. I was a delegate pledged to Dwight Eisenhower. Our paths again crossed after Nixon was named Vice President and was asked by President Eisenhower to attend Oregon's centennial celebrations in 1959. At that time, my wife, Antoinette, and I were living in a small apartment awaiting the renovation of our home. The Vice President came to our apartment for lunch and pronounced himself an eternal fan of Antoinette's string bean casserole.

It was this Richard Nixon that many Americans, and certainly the media, missed. To many, his humanness was remote. But despite all the difficult times he faced, it was not lost. President Nixon's reserved nature was made more approachable by his gracious and warm wife, Pat, and his impressive daughters Julie and Tricia. His family acted in full partnership with the President throughout his career. The passing of Patricia Nixon last year was a loss to all.

As I got to know the President better, through our time spent at Republican Party functions and during his visits to Oregon, I came to admire the intellect of Richard Nixon. In 1960 he asked me to give the Presidential nominating speech at the Republican National Convention. He often commented upon the brevity of my remarks but I believe that my assessments of the man were indicative of his long career.

In that speech I said:

> Never before has a Vice President been such a full participant in the making of national policy. Never before has a Vice President shared so intimately in the shaping of major international decisions.
>
> And yet he is one of us, and like so many of us, owes an unending debt of gratitude to parents who nurtured him, a wife whose love and companionship have earned for him, and for us, the affection and respect of uncounted millions from Ghana to Warsaw.
>
> He has known hard times, he has known hard work. He has trod the path of peacemakers, but he will not surrender the hopes, the ambitions, the achievements of this Nation, nor will he make apologies to express regrets for this country's policies of self-preservation.
>
> In this hour when the world, itself, is half-slave and half-free the leadership in the White House is the beacon for free men and all who would be free.
>
> May I present in nomination a fighter for freedom, a pilgrim for peace . . . the Honorable Richard M. Nixon.

Beyond personal remembrance, our Nation will collectively recall his statesmanship. No American in this century influenced American foreign policy as President Nixon did.

It has been said that his philosophy was never to look back. Indeed, he did not. Even as the heaviest bombings were being inflicted upon the North Vietnamese, and against the wishes of American conservatives, President Nixon ended the two-decade-long enmity with China. Spending an entire

week in China, Nixon helped shatter myths on both sides: about the Chinese and about Americans. As a March 1992 Time magazine article described the event: "The trip * * * marked the beginning of a more pragmatic and complex, less concentrated and crusading application of American power."

Nixon's immediate aim during the China visit was to improve understanding and communication. He said at the time that his hope for the trip was that, "walls will not divide peoples of the world, that peoples regardless of differences in philosophy and background will have an opportunity to communicate with each other and know each other." He succeeded and although our relationship with China has always been complicated, I believe communications made possible by the Nixon visit altered the fate of two countries. President Nixon's contributions to United States-Union of Soviet Socialist Republics détente and his active efforts to promote a new relationship with Russia after the Soviet Union's collapse built upon his China efforts.

Because his foreign affairs views were freely given and actively sought by world leaders over the past few years, little has been said about President Nixon's contributions to American society. Motivated by an empathy for the poor borne of his own poverty-ridden childhood, his interest in a guaranteed annual income for all Americans furthered the drive to eradicate poverty. Although his plan did not succeed, his administration won increases in funding for welfare, food stamps, Social Security, and disability pensions.

Nixon's administration provided a moderate Republican stand on poverty and social programs and opened doors for new thinking on program development. Above all, his programs made a difference. As Congressman Tom Foley remarked in 1989, "The Nixon administration was most important in advancing the antihunger fight in America.

President Nixon lived a long and productive life marked by both dark, difficult times and by intellectual brilliance. I extend my deepest sympathy to his family for the loss of this incomparable man.

BUDGET SCOREKEEPING REPORT

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

This report shows the effects of congressional action on the budget through April 22, 1994. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 287), show that current level spending is below the budget resolution by $4.8 billion in budget authority and $1.1 billion in outlays. Current level is $0.1 billion above the revenue floor in 1994 and below by $30.3 billion over the 5 years, 1994–98. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $311.7 billion, $1.1 billion below the maximum deficit amount for 1994 of $312.8 billion.

Since the last report, dated April 20, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 25, 1994.

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

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the 1994 budget and is current through April 22, 1994. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 64). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated April 19, 1994, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER.

Enclosure.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1994, 103D CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS APRIL 22, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 64)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,223.2	1,218.5	−4.8
Outlays	1,218.1	1,217.1	−1.1
Revenues:			
1994	905.3	905.4	0.1
1994–98	5,153.1	5,122.8	−30.3
Maximum deficit amount	312.8	311.7	−1.1
Debt subject to limit	4,731.9	4,470.1	−261.8
OFF-BUDGET			
Social Security outlays:			
1994	274.8	274.8	(3)
1994–98	1,486.5	1,486.5	(3)
Social Security revenues:			
1994	336.3	335.2	−1.1
1994–98	1,872.0	1,871.4	−0.6

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

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

[3] Less than $50 million.

Note: Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1994, AS OF CLOSE OF BUSINESS APRIL 22, 1994

[In million of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			905,429
Permanents and other spending legislation[1]	721,182	694,713	
Appropriation legislation	742,749	758,885	
Offsetting receipts	(237,226)	(237,226)	
Total previously enacted	1,226,705	1,216,372	905,429
ENACTED THIS SESSION			
Emergency Supplemental Appropriations, FY 1994 (P.L. 103–211)	(2,2862)	(248)	
Federal Workforce Restructuring Act (P.L. 103–226)	48	48	
Offsetting receipts	(38)	(38)	
Housing and Community Development Act (P.L. 103–233)	(410)	(410)	
Total enacted this session	(2,686)	(648)	0
PENDING SIGNATURES			
Extending Loan Ineligibility Exemption for Certain Colleges (S. 2004)	5	3	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted[2]	(5,562)	1,326	
Total Current Level[3,4]	1,218,462	1,217,054	905,429
Total Budget Resolution	1,223,249	1,218,149	905,349
Amount remaining:			
Under Budget Resolution	4,787	1,095	
Over Budget Resolution			80

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

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

[3] In accordance with the Budget Enforcement Act, the total does not include $14,145 million in budget authority and $9,057 million in outlays in emergency funding.

[4] At the request of Committee staff, current level does not include scoring of section 601 of P.L. 102–391.

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

THE DEATH PENALTY AND THE CRIME BILL

Mr. HATCH. Mr. President, I have what I consider to be quite important remarks here today, after meeting in the Judiciary Committee this morning.

President Clinton is prepared, in my opinion, to end the death penalty in the States and at the Federal level. Last week the other body left in its crime bill the so-called Racial Justice Act. This provision, through its misuse of racial statistics, will result in the abolition of the death penalty in every State which has a constitutional death penalty, including my State of Utah, as well as every Federal death penalty. They will all be removed.

This provision is opposed by most State attorneys general, the National District Attorneys Association, and other law enforcement and victims groups. To my astonishment, Attorney General Reno, in testimony before the Senate Judiciary Committee just this morning, expressed the Clinton administration's neutrality regarding this

provision. Evidently, the President is prepared to sign a bill which will include this provision.

Thus, in a single blow, President Clinton is prepared effectively to strike down this law enforcement tool favored by the overwhelming majority of Americans. While professing verbal support for the death penalty, this administration is a cynical and willing participant in the destruction of the death penalty.

Let me first emphasize what is not at issue. Under the 14th amendment to the Constitution, no person can be sentenced to death on the basis of race. No one disputes this elementary proposition. Moreover, the Senate crime bill requires the trial judge to instruct the jury not to consider race and to return a certificate, signed by each juror, that race was not involved in their judgment in a death penalty case.

In the guise of protecting against race-based discrimination, title IX of the House bill would in fact use an unreliable and manipulable statistical quota to redefine when a death sentence shall be deemed to have been based on race. Specifically, title IX provides that an "inference that race was the basis of a death sentence is established" if the evidence shows that "race was a statistically significant factor in decisions to seek or to impose the sentence of death in the jurisdiction in question."

It is essential to recognize that statistics can be selected and manipulated across an endless number of variables. Thus, a supposed expert retained by a death-sentenced murderer could make choices from among the following:

The relevant State actor could be an individual prosecutor, a prosecutor's office, a jury, some set of juries, a judge, some set of judges, an executive with clemency authority, or some combination of the above;

Statistical evidence of alleged discrimination could relate either to the race of the defendant or to the race of the victim;

The "jurisdiction in question" could be defined as a city, county, State, district, circuit, or some other governmental unit;

Any of countless features of crimes could be categorized and compared in countless ways.

Given these many variables, it is inevitable that in virtually every case, a supposed expert could manufacture a statistical disparity that would then be alleged to be significant.

The Racial Justice Act would, as a result, convert every death penalty case into a massive sideshow of statistical squabbles. Instead of the prosecutor putting a brutal murderer on trial, the murderer would be putting the prosecutor on trial. Moreover, once a statistical disparity was artificially deemed to establish an inference that a death sentence was based on race, the Government would have the burden of proving a negative: It could rebut this fictitious inference only by proving an absence of discrimination. Worse, it might have to try to prove such evidence years, or even decades, after the events in question, when witnesses and records are no longer available.

The Supreme Court rejected this statistical theory of racial discrimination in the death penalty in *McCleskey* v. *Kemp*, 481 U.S. 279 (1987), where it ruled that a capital defendant claiming a violation of the Federal equal protection clause must show the existence of purposeful discrimination and a discriminatory effect on him. Justice Powell, in his opinion for the Court in McClesky, noted that implementation of murder statues inherently requires discretion, which he recognized "is essential to the criminal justice process." Justice Powell explained that this process is "unique." He went on to say:

> [T]he nature of the capital sentencing decision, and the relationship of the statistics to that decision, are fundamentally different from the corresponding elements in venire-selection or Title VII cases. * * * In those cases, the statistics relate to fewer entities and fewer variables are relevant to the challenged decisions.

Justice Powell further stated:

> Another important difference between the cases in which we have accepted statistics as proof of discriminatory intent and this case is that, in the venire-selection and Title VII contexts, the decisionmaker has an opportunity to explain the statistical disparity. Here, the state has no practical opportunity to rebut the [statistical] study. "[C]ontrolling considerations of * * * public policy," dictate that jurors "cannot be called * * * to testify to the motives and influences that led to their verdict." Similarly, the policy considerations behind a prosecutor's traditionally "wide discretion" suggest the impropriety of our requiring prosecutors to defend their decisions to seek death penalties, "often years after they were made."

Justice Powell also observed that the use of statistics advocated by McCleskey—and incorporated into the House bill—"throws into serious question the principles that underlie our entire criminal justice system," and cannot be limited in any principled manner to the context of the death penalty and race.

In practice, as prosecutors already recognize, they would ultimately have no choice under title IX but to abandon the death penalty. For the only way to ensure statistical proportionality across the range of conceivable measures it to have the incidence of the death penalty equal zero—that is, to abolish the death penalty.

President Clinton claims to support the death penalty. He has been calling on Congress to pass a crime bill that contains a Federal death penalty. Yet he and his administration have been silent as the House has moved to abolish the death penalty nationwide by this racial justice provision.

If President Clinton truly supports the death penalty—if his actions are to match his rhetoric—he must speak out against title IX. If he remains silent or neutral on this issue, that can only mean that he is prepared to repeal the death penalty for the most heinous crimes in this country.

A vote for any bill that contains title IX is a vote to abolish the death penalty, both at the Federal level and among the States. I look forward to working with my colleagues to make sure that this provision is removed at conference.

THE AMERICAN PEOPLE HAVE A RIGHT TO KNOW

Mr. D'AMATO. Mr. President, I have a statement that I indicated last Friday I was going to make. It is a statement that will take about 10 minutes. I have waited so I would not impede business. It deals with the Whitewater matter.

Mr. President, last Friday, the press was given a 75-minute opportunity to ask Mrs. Clinton questions about her investments in the Whitewater Development Co. While 75 minutes may not seem like an adequate period of time to explore this complicated subject, it was 75 minutes more than we in the Congress have been given to ask our questions. We, and the American people, must wait to get the facts because no Whitewater hearings have been scheduled.

Until these hearings are held, Congress and the American people have no way to get the answers. While the American people wait for congressional hearings on Whitewater, I believe that Members of Congress have an obligation to at least raise the questions.

Here are just some of the questions that should be answered for the American public:

First, were federally insured deposits used to keep Whitewater afloat, and did the American taxpayers help pick up the tab for the Whitewater land deal?

The President and Mrs. Clinton have portrayed Whitewater merely as a business venture in which they invested their own money and lost. But the American taxpayers want to know whether they also invested in Whitewater and lost.

Mr. President, were federally insured deposits used to keep Whitewater afloat? The American people have a right to know.

The President and Mrs. Clinton were business partners in Whitewater, with James and Susan McDougal. Jim McDougal owned Madison Guaranty Savings and Loan, which was federally insured by the Federal Savings and Loan Insurance Corporation. When Madison failed and was taken over by the Government in February 1989, it cost the American taxpayers an esti-

mated $67.6 million. Did taxpayers lose money because federally insured deposits flowed from Madison into Whitewater?

According to a March 1992 report prepared by Denver lawyer James Lyons and released by the Clinton campaign, Jim McDougal infused more than $268,000 into Whitewater. Did Jim McDougal use federally insured deposits from Madison to keep Whitewater afloat? The American people still do not know. But we do know that RTC lawyers who investigated the failure of Madison apparently found enough evidence to make a criminal referral to the Justice Department alleging a $1.5 million check-kiting scheme between Madison, McDougal and businesses under his control. Was Whitewater a part of the check-kiting scheme? Mr. President, the American people have a right to know.

A second question is whether Whitewater was able to write bad checks because the Clintons' business partners owned the bank? Because President Clinton has refused to release Whitewater's records, very few of those records have become publicly available. But copies of the check registers of Whitewater's account at Madison indicate that Whitewater's account was overdrawn with some frequency. Was President Clinton's Whitewater Development Co. able to write bad checks on its account at Madison without having them bounce because the bank was owned by his business partner? The American people have a right to know.

Not too long ago when it was discovered that some of our colleagues in the House bounced checks at a bank that they controlled, Congress certainly thought the American people had a right to know.

Third, if federally insured deposits from Madison were used to keep Whitewater afloat, did the President and Mrs. Clinton benefit?

The President and Mrs. Clinton owned half of Whitewater. According to the President, he and his wife invested about $47,000. According to the President's own report, the McDougals invested $92,000, almost twice the Clintons' actual investment. Yet, they were equal partners.

If the President went into a business venture on a 50-50 basis with a political supporter who ended up putting in twice as much money, the American people have a right to know.

What was it that the Clintons brought to the Whitewater deal that made their $47,000 investment equal in value to the McDougals' $92,000?

But there are more questions. For instance, were the Clintons simply passive investors in Whitewater? The President and Mrs. Clinton have been portrayed simply as passive investors in Whitewater. But the few Whitewater records publicly available suggest otherwise.

Did the President and Mrs. Clinton play a more active role in Whitewater? Why have they not been forthright as to the extent of their involvement? The American people have a right to know.

On December 12, 1980, Whitewater transferred one of its lots to Hillary Clinton. Hillary Clinton then borrowed $30,000 from the Bank of Kingston, another bank owned by Jim McDougal. According to Whitewater Development Co.'s accountant, Charles James, the proceeds of the loan were used to build a model home on the lot that could be viewed by potential customers of Whitewater Development Co. Whitewater Development Co. recorded the loan as a debt owed to Hillary Clinton and treated the model home as a corporate asset.

On November 10, 1981, the lot Hillary Clinton owned was sold for $27,500.

On September 30, 1983, Bill Clinton borrowed $20,800 from Security Bank in Paragould, AR, and, according to the White House, the proceeds were used to pay Hillary Clinton's $30,000 loan from the Bank of Kingston.

On September 14, 1988, Bill and Hillary bought back the lot and the home because the original purchaser went bankrupt. The Clintons paid $8,000. The Clintons were sold the lot and house on October 31, 1988.

If the President and Mrs. Clinton were merely passive investors, why did Hillary Clinton take property from Whitewater and put it in her own name?

Why did Hillary Clinton borrow money in her own name to build a model house for the Whitewater Development Co.?

Why did Bill Clinton take out a personal loan to repay the debit taken out by his wife to build the model home?

Why did the Clintons sell the lot and home, buy it back and resell it in their own names? After all, Whitewater's only business was the development and sale of property, so why did the Clintons, who were so-called passive investors in a real estate company, undertake these activities in their own name? The American people have a right to know.

Mr. President, I would like to make an observation; Mrs. Clinton indicated that there was more than a passive interest, but that was not until the late 1980's, and that was only an attempt to close the Whitewater operation down, since Mr. McDougal was no longer available. The incidents we have just spoken about occurred back in the early eighties—December 12, 1980, November 10, 1981, September 30, 1983—and would certainly seem to indicate that this was much more than a passive investment.

After all, Whitewater's only business was land development, again. And so, if one of the investors was actually buying and selling land, I think the American people have a right to know how it was that they considered themselves to be passive investors.

And the fifth area: Were federally insured deposits used for campaign contributions? Mr. President, there are also a series of allegations that funds from Madison were used to make campaign contributions to then Governor Clinton. During the final days of the 1984 gubernatorial campaign, Bill Clinton took out an unsecured $50,000 personal loan from the Bank of Cherry Valley. Mr. Clinton reportedly appointed Maurice Smith, who controlled the bank and served as Clinton's 1984 campaign finance chairman, to the Arkansas Highway Commission. Mr. Clinton reported the $50,000 as a personal contribution. However, his campaign report failed to disclose the source of these funds.

Bill Clinton reportedly requested James McDougal to raise campaign funds to repay the $50,000 loan. On April 4, 1985, McDougal arranged a debt-retirement event at Madison. The RTC has reportedly asked the Justice Department to determine if $60,500 in Madison funds may have been diverted improperly to help retire Governor Clinton's 1984 gubernatorial campaign debt.

Mr. President, were federally insured deposits from Madison used to make campaign contributions to then-Governor Clinton? The American people have a right to know.

Campaign contributions to Bill Clinton in February and October 1985 allegedly came from the Whitewater Development Co., as well as Susan McDougal's company, Madison Marketing.

Did these checks totaling $10,500 cause overdrafts on accounts at Madison? The American people have a right to know.

Another question is whether federally insured SBA guaranteed loan funds were used by Whitewater.

Mr. President, there are also indications that money from a federally insured SBA program was used by Whitewater to purchase property in Arkansas. David Hale, former Arkansas municipal court judge for Pulaski County, AR, appointed by Clinton, incorporated Capital Management Services, Inc., under Arkansas law in September 1978. The SBA licensed Capital Management Services, Inc., as a special small business investment company, the activities of which by law were limited to businesses at least 50 percent owned, controlled, and managed by "socially economically disadvantaged" individuals.

In March 1986, Whitewater entered into a contract to purchase an 810-acre tract of land south of Little Rock from International Paper Realty Co.

In April 1986, Capital Management made Susan McDougal's company, Master Marketing, a $300,000 SBA-backed loan. According to a document

provided by David Hale, $193,000 of the $300,000 loan was apparently intended to be used to develop the land purchased from International Paper Realty.

In October 1986, Whitewater Development Corp. purchased the property from International Paper Realty for $550,950. Jim McDougal paid $80,190 at closing, and Whitewater Development Corp. signed promissory notes totaling $470,760.

In December 1986, Whitewater Development Corp. paid International Paper Realty another $30,000 and transferred the property to Great Southern Land Co., Inc., another McDougal-owned company. Although the property was transferred, Whitewater Development remained liable on a $440,760 promissory note. The $300,000 loan to Susan McDougal's company was never repaid and the SBA closed Capital Management in 1993. The SBA estimates that the insolvency of this company will cost the American taxpayers $3.4 million.

Was the money from the SBA loan used by Whitewater to purchase property? The American people have a right to know.

And the final question, for now. Did Mrs. Clinton's cattle futures transactions comply with the commodities laws?

Mr. President, according to the Wall Street Journal, Mrs. Clinton's account almost never met the margin requirements.

For example, her account statements show that she made a cash deposit of $1,000 and closed out her position the next day with a profit of $5,300, increasing her original investment by over 500 percent.

To make that kind of profit, she would have had to own about 17 contracts at about $22,000 for each contract, or a total of $374,000 worth of cattle future contracts.

John Damgard, President of the Futures Industry Association said, "Significant undermargining raises the question of whether somebody was arranging her trades."

Even the spokesman chosen by the White House, Marvin Chirelstein, of Columbia University Law School, reportedly saw "no evidence of hard risk."

If you or I tried to trade $374,000 worth of commodity contracts with only a thousand dollars to back up the trade, it could not be done. And, if the broker agreed to place the trades, he would be in serious trouble.

Mr. President, Mrs. Clinton's commodity trading raises several questions:

Who provided the funds for the trading in those accounts?

Why was not Mrs. Clinton's account called to meet its margin requirements?

Just how much did Mrs. Clinton rely on James Blair to make decisions and place trades for her account?

Did Bill Clinton repay James Blair by giving special treatment to Tysons?

How did a novice trader turn $1,000 into $100,000 in such a short time in such a risky and volatile market?

Mr. President, today I have raised only some of the questions that have not been answered. There are many other questions that remain unanswered.

For example, did the Rose law firm shred any documents that are relevant to the Whitewater investigation?

What documents were removed from Vince Foster's office?

Were law enforcement authorities blocked from searching that office?

Where did all the money that the Federal Government invested in David Hale's SBA-backed company go?

When did then-Governor Clinton learn that Dan Lasater, a political supporter who did business with the State, was under investigation for possible Federal narcotics offenses?

Why did then-Governor Clinton grant Lasater a conditional pardon for his Federal drug felony conviction?

Did the Rose firm overcharge Federal agencies for legal work and fail to disclose possible conflicts of interest?

Mr. President, as the New York Times pointed out in an editorial last Sunday:

> The First Lady's willingness to open herself to questions is welcome, but her performance, however deft, leaves plenty of troubling issues for the special prosecutor and Congress to explore.

Congressional hearings are the only way to get straight answers to the serious questions about the entire Whitewater controversy. The American people have a right to know the answers. The sooner the hearings occur, the sooner Congress can fulfill the American people's right to know.

Mr. President, I yield the floor.

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

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

The assistant legislative clerk called the roll.

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

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

Mr. RIEGLE. Mr. President, let me address a question to the Chair. Am I correct in my assumption that the pending business is now the interstate banking bill?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair wishes to state in response that the hour of 10 o'clock having arrived, morning business is closed.

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1963, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1963) to permit certain financial institutions to engage in interstate banking and branching.

The Senate resumed consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is S. 1963.

Mr. DODD. Mr. President, I want to commend the chairman of the Senate Banking Committee, Senator RIEGLE, for his strong leadership in bringing this bill before the Senate. I speak specifically of the Interstate Banking and Branching Act of 1994.

Mr. President, the Congress of the United States has considered the issue of interstate banking and branching for far too many years, in my opinion. We have debated every nuance, contemplated every scenario, and literally cited every statistic many times over. But, finally, after all this ruminating over many years, I believe we have achieved consensus on this most important issue.

The swift movement of legislation through both Houses indicates just how strong this consensus is. The Senate Banking Committee, Mr. President, reported the interstate banking and branching bill out 19 to 0 in February. In March of this year, the House Banking Committee approved a very similar bill by a vote of 50 to 1. The full House of Representatives then passed the bill by a voice vote.

Mr. President, we need to continue this momentum, in my view, and to do everything possible to pass this legislation without amendments, I would say, that will immediately kill the bill or sentence it to a slow death, so that we may have an interstate banking bill on the President's desk by Memorial Day. I think, frankly, we can meet that goal.

Mr. President, I have long supported changes to our archaic constraints on interstate banking and branching. For many years, I have introduced legislation to bring the geography of banking into the 20th century. With the passage of this bill, I believe we will be closer than we have ever been to finally doing away with a set of restrictions that simply no longer serve any legitimate

purpose. Full interstate branching will streamline the administration, improve bank efficiencies, ease regional economic slumps, boost consumer convenience, ameliorate the impact of future credit crunches, and I think enhance the safety and soundness of the banking industry overall.

Most important, Mr. President, it will benefit consumers in a way that should not be underestimated. The lives of bank customers nationwide will change considerably for the better as a result of this legislation. Interstate branching will permit customers to enjoy a full range of bank services available at their bank in any State in which that bank operates.

For those who believe that the number of individuals who would benefit from these conveniences is small, recent statistics reveal otherwise. The Census Bureau reports that 16 million Americans who live in metropolitan areas cross State lines; 4 million Americans commute interstate each and every workday; and 493 million trips are taken by Americans each year across regions in this country. The countless Americans who vacation throughout these regions will be able for the first time in many instances to make deposits and conduct other normal bank business without regard to State lines. That is merely catching up with the reality of everyday life in our society.

Recently, Mr. President, in my home State of Connecticut, a large money center bank opened its first bank in the State. Connecticut residents who work in New York—and many do—have deluged the bank with requests to deposit money in New York and withdraw it at home or vice versa. Due to interstate restrictions, the bank has had to say no. That just does not make any sense at all, in my view.

In addition to increased convenience for customers and consumers, consumers will benefit from the savings achieved from the breakdown of market barriers and through increased competition. Recent studies have revealed that bank performance improves with increased market entry and lower prices, higher returns and greater convenience results. That is obvious, Mr. President—allow another bank to come in the area or view and start competing for consumers' business and consumers benefit.

The economic benefits of interstate banking and branching are extremely important. Full interstate banking and branching authority would have been enormously invaluable in cushioning the impact in my region of New England's devastating credit crunch. I believe interstate banking and branching would have brought badly needed capital to our region from other parts of the Nation, easing economic difficulties, saving jobs, and avoiding much pain for people and their families. Bank failures and regional economic slumps could have been prevented if banks had been able to hold loan portfolios with greater geographic diversity.

The legislation before us has been painstakingly crafted to address a wide variety and array of concerns that have been raised over many years when we have considered this issue.

This legislation contains safeguards to preserve safety and soundness by prohibiting undercapitalized institutions from participating in interstate branching. It respects the interests of States by giving them a long transition time and requiring branches to abide by applicable State laws.

Further, the legislation meets community needs by maintaining Community Reinvestment Act requirements. The legislation ensures competition and diversity of services by providing safeguards against overconcentration of banking assets in any one State.

Mr. President, while personally I would prefer a swifter and more comprehensive shift to interstate banking and branching, I believe that this legislation establishes a sensible and consistent approach which will promote bank efficiency and growth.

The legislation, Mr. President, further contains several wrinkles that need to be ironed out in my view when we resolve our differences with the House of Representatives, the other body. One I would like to mention is the failure of this legislation to provide national treatment to banks from other nations.

As it is currently drafted, the bill would only permit foreign banks to branch through subsidiaries. I am concerned that this provision will adversely affect the ability of our institutions, our banks, to receive fair and equitable treatment in other nations. The Treasury Department also has serious concerns about this provision.

I would point out for instance that an institution like Citicorp, or Citibank, has been located in Latin America since 1913. That has not only been a valuable asset for Citibank but also for many American businesses and individuals who travel and do business in Latin America. To have been able to have an American financial institution in those nations for almost a century has been extremely important to us as a nation.

If we do not allow foreign institutions that meet our basic standards and tests to operate here, then U.S. institutions that operate so effectively and have over the years elsewhere of course could be badly adversely affected. This law is the exception to an otherwise I think well crafted piece of legislation which should and must be passed.

We have reached an ideal time in my view to act on this enormously critical legislation which will bolster the long-term health of our banking system.

I strongly urge my colleagues to support this significant change to our current system.

Mr. President, I am told that there are a number of amendments that are being considered to be offered to this legislation. Let me just say to my colleagues, I am told that some of the ideas, in fact, are the ones that I have supported in the past and hopefully can support again. But we have worked for so many years to arrive at this moment in time to be able to have an interstate banking and branching bill which has passed the other body, has come out of our Banking Committee with a 19-to-nothing vote, and is on the brink of passage here. If we take amendments to this legislation, no matter how meritorious they may be, I can almost guarantee that this legislation will die. We have a crowded agenda in the remaining weeks before us. If we get tied up in a conference with the House of Representatives on this bill, then my view is the legislation will fail, and once again, consumers in my view will be adversely affected.

Our hope is today to be able to consider those amendments. Obviously each and every Senator has a right to offer amendments to this legislation. But if we consider those amendments today and pass this legislation by this evening, then I am confident that we could adopt this bill very, very quickly and make a significant contribution to improving the financial conditions of our institutions but more importantly provide a real convenience and asset to millions of Americans and consumers who need and have a right to interstate banking and branching to meet their financial concerns and needs.

Mr. President, it is 11:05. My hope is that over the next 50 minutes Members who have amendments will come to the floor so that we may consider those proposals. I am told that we will take a break for our respective conferences, as we do every Tuesday in the Senate normally between 12 and 2. But because of the considerations of health care legislation, the conferences are going to go a bit longer today until 3 o'clock.

So we will be tied up considering in our respective meetings the various health care proposals. So any amendments I would welcome in the next 50 minutes so we might dispose of before we go into that recess at 12 noon.

Without seeing any additional Members on the floor, Mr. President, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

VISITORS FROM SPRING HILL SCHOOL

Mr. RIEGLE. Mr. President, as we proceed today with the interstate banking bill, we have the good fortune to be visited today in the U.S. Senate by the third grade students from the Spring Hill School in McLean, VA. My daughter, Ashley, is a third grader there. And she has brought all of her classmates, teachers, and parents down today to see the U.S. Senate at work. And they are up in the gallery at the present time watching to see what happens. I just wanted to extend a welcome to them and their teachers who are here visiting today.

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

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

GATT TREATY CONCERNS

Mr. PRESSLER. Mr. President, I rise to raise some concerns about the upcoming GATT treaty that will be considered by this body soon.

As I understand it, the Senate will be voting on legislation to implement the new GATT agreement. I have some real problems with the GATT agreement.

Let me say, first of all, that I am a free trader. I believe that trade is one of the best ways to get along with other countries and to promote prosperity. But I also believe in equal treatment. If other countries' products come into our country, our products should be able to go into theirs on an equal basis. When I say I am a free trader, a lot of people in the world hear that we are going to open up our markets, but their markets remain closed.

Mr. President, as a member of the Senate Foreign Relations Committee, and the Commerce Committee, and prior to that as a soldier in the Army, and as a student, I have visited over 140 countries in my lifetime. I always find that these other countries want to send their products into the United States. They say: "We are just a little country. We put tariffs on your products. We are so little it really does not matter."

But it does in a cumulative way. The American taxpayer is actually paying, and the American consumer is subsidizing these other countries in trade. That has been particularly true with Japan over the last 10 years, but it is also true with a number of other countries as well.

Now we have the GATT treaty which has been signed by the United States. But under our system of laws, legislation to implement the new agreement has to come to the Congress for approval.

I have great concerns with the GATT treaty. I think we should take a look beyond just the first step, because when we think about the GATT agreement most think of only the world's major powers being involved. But what is being proposed to be created is a 125-nation governing board where majority vote will rule. This means that a lot of small dictatorships—and most countries in this world are still dictatorships; they are not democracies—a lot of small countries that do not have the same value system that we have, will be voting and maybe outvoting the United States on trade matters.

I am not so sure that we want to turn over our sovereignty on bilateral trade agreements to an international council of 125 nations.

Also, I am concerned with the proposed environmental committee of the World Trade Organization. Who could be against an environmental committee? Yet this environment committee will have great power over nations. There also is a new country of origin committee.

But what is really behind this is their agenda to raise money to assess the U.S. taxpayers to pay in, just like the United Nations where they assess us so much and they say we are in arrearage if we do not pay. We are paying 31.7 percent of all peacekeeper efforts at the United Nations, for example, while some of our rich allies are not doing their fair share, in this Senator's judgment.

This has all the makings of an international organization that will cause a lot of trouble. Probably it will not cause as much trouble in the first year or two, but once we get into that third, fourth, and fifth year and looking down the road 10 years, I think the United States might well regret that it entered into this GATT agreement the way it is structured.

So I have some very serious structural problems. What can we do about it now—the Clinton administration has signed the treaty—there are a number of things. If the Senate should reject it, it could go back and be renegotiated. But let us take a very careful look at this majority rule of these 125 nations. It does not have the same safeguards as in the United Nations where we have the Security Council safeguard, on the basic important decisions where the great powers have reserved their right for a veto.

Here in the World Trade Organization we are turning over a lot of trade decisions to a 125-nation group where majority rule will prevail. And the majority of the WTO will be developing countries, dictatorships, countries that want to get products from the United States with nothing in return, countries that are not practicing human rights, and countries that do not have the same standards that we have.

So let us think very carefully about what we are doing in the upcoming GATT treaty. This has not been brought up very much in our media. It has not been brought up very much here on the floor of the Senate. I intend to try to bring it up in a series of speeches, and I would like to get some discussion going on the structural organization we are accepting in the GATT treaties.

Let us be careful, because once the WTO is created, everyone will say, oh, we did not realize we were turning this much power over, or we did not realize the bureaucrats over in Vienna or Geneva were going to be controlling U.S. trade and/or making our environmental laws. Watch out.

I am all for a clean environment. I am an environmentalist. But when you read the fine print, these new committees have a lot of power and could assess taxes and payments on the United States. You know who those 125 countries are going to ask most for the payments. They are going to be after the United States. We will do our fair share. We do more than our share, and we should, because we are a prosperous country. But I do not want us taken advantage of.

So this Senator reserves how he is going to vote on the GATT treaty. I may well oppose it on the structural grounds, and I wish that the Clinton administration had not agreed to the proposed environmental concerns. I wish they had stuck with the Bush position. But it seemed they were so eager to get agreement to show progress on trade, that they signed this agreement. Now the Senate has the heavy duty of lifting, so to speak, of being very careful about entering into that GATT treaty.

Mr. President, I ask unanimous consent to print an additional description of the 125-nation committee in the RECORD.

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

THE NEW WORLD TRADE ORGANIZATION UNDER THE GATT

In 1948, the GATT—the General Agreement on Tariffs and Trade—was created. The GATT is a multilateral instrument designed to serve as the world's governing regime for international trade. Its primary objective is to achieve substantial reduction of tariffs and other barriers to world trade. The organization provides a framework within which international trade negotiations are conducted and international trade disputes are resolved. The GATT is headquartered in Geneva, Switzerland.

On April 15, 1994, 125 countries signed a new General Agreement on Tariffs and Trade. This new agreement resulted from seven years of negotiations. Once the new GATT is ratified by all 125 signatory countries, the World Trade Organization will be created. At that time, the WTO will replace the GATT. Under the new agreement the WTO would function as an expanded organization from what GATT is currently.

The new GATT agreement created a World Trade Organization (WTO) as a legal entity to control the foundations of trade among its

members countries. Unlike GATT, which is simply a framework of an agreement, the WTO would have international legal status, headquarters, staff and a budget.

FUNCTIONS OF THE WORLD TRADE ORGANIZATION

The WTO will implement and administer the new GATT. It will provide the forum for negotiations among its members concerning their multilateral trade relations under the new agreement. The WTO will administer the new rules and procedures governing dispute settlements and overall trade policy review. In economic areas, the WTO will work with the International Monetary Fund and the International Bank for Reconstruction and Development.

STRUCTURE OF THE WORLD TRADE ORGANIZATION

Under the WTO, a Ministerial Conference comprised of all signatory nations is created. The Conference will meet once every two years. The Ministerial Conference will appoint a Director-General and establish the powers, duties, conditions of service and terms of office of the Director-General. A Secretariat of the WTO also is established, to be headed by the Director-General.

A General Council, composed of representatives of all members, is formed and shall meet as appropriate. The General Council shall discharge the responsibilities of the Dispute Settlement Body and the Trade Policy Review Body. Both of these bodies will have their own chairman and establish rules of procedure necessary for the fulfillment of their responsibilities. Similar bodies exist under the present GATT.

The Ministerial Conference will establish three committees which also exist under the present GATT structure. They are:

Committee on Trade and Development.

Committee on Balance-of-Payments Restrictions.

Committee on Budget, Finance and Administration.

However, the Ministerial Conference also will create the following new committees:

Agriculture.

Environment.

Rules of Origin.

The WTO will be responsible for determining environmental impacts and concerns arising from all future trade. It is empowered to recommend actions where appropriate.

Three other new entities are created under the new agreement:

Council for Trade in Goods.

Council for Trade in Services.

Council for Trade-Related Aspects of Intellectual Property Rights.

These councils will operate under the auspices of the General Council and will carry out the functions assigned to them by their respective agreements under the new GATT and by the General Council. These councils also will establish subsidiary bodies where required.

DECISIONMAKING PROCESS

The WTO will continue the practice of decisionmaking by consensus followed under the GATT since 1947. When a decision cannot be reached by consensus, the matter at issue will be decided by voting. At meetings of the Ministerial Conference and the General Council, each member of the WTO shall have one vote. A majority vote is required for decisions by the General Council, unless otherwise provided in the Agreement.

The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of the Agreement.

BUDGET

The Director-General will present to the committee on Budget, Finance and Administration an annual budget estimate for the WTO. This committee will propose to the General Council financial regulations establishing: (1) the scale of contributions apportioning the expenses of the WTO among its members; and (2) the measures to be taken regarding members in arrears.

The General Council will adopt the annual budget by a two-thirds majority comprising more than half of the members of the WTO. Each Member will contribute to the WTO its share in the expenses of the WTO in accordance with financial regulations adopted by the General Council.

Mr. PRESSLER. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, let me begin by commending the chairman and the ranking member of the Banking Committee for the hard work that has gone into the issue of resolving the questions around interstate banking and branching. This has been a very important and a contentious issue which we have worked on for a number of years. The Senate has been trying for a long time to get legislation enacted which would provide for interstate banking and branching, and I believe we can see the light at the end of the tunnel.

I intend to support the legislation as drafted because I do believe it takes us in the right direction but also because I am a supporter of State's rights. I would prefer that the bill contain some amendments which I believe may be offered by one of my colleagues on the other side. The provisions I specifically address are, No. 1, to allow for a 3-year period in which States may have time to consider changes in State laws which are necessary to the implementation of this act. I believe, since we do have a dual banking system where State regulation is important, that we should give States that opportunity.

Second, I would like to ensure that State laws apply to all branches of out-of-state banks, both Federal and State chartered. Discussions are underway I understand at this time involving the National Governors Association and responsible parties in the administration. I hope we will have an agreement from them which will be accepted by my colleagues because I do believe we should move in this direction.

Although I believe that interstate banking is clearly a positive step for banks, both competitively and economically, I also believe that each State should have the right to decide what is best within its borders. That is something I hope is considered favorably by my colleagues.

In addition to the major point of interstate banking which is before us today, I do want to discuss with my colleagues S. 783, the Consumer Reporting Reform Act of 1994. This bill passed the Banking Committee by a vote of 15 to 4 late last October.

Mr. President, I have been working on this legislation for about 4 years, and with Senator BRYAN, who has taken the lead on this, we have come together on the measure which is S. 783. It is a bill to reform the Fair Credit Reporting Act, and we may offer it as an amendment to S. 1963. That is something we need to discuss with the managers of the bill as well as the leadership. We introduced this legislation back on April 7, 1993. Hearings were held in May of last year. I believe the time has come to move forward on this bill.

Let me tell you why. The Fair Credit Reporting Act is ripe for revision. I have heard too many horror stories, and we have had them laid out in testimony before the Banking Committee, not to believe this area is ripe for reform. The act was written long before computer technology was as sophisticated as it is today. These technological advances have meant a drastic increase in the amount of information that can be kept on individuals.

It is quite clear to me that current law simply does not do the job of adequately protecting consumers. Although consent decrees obtained by the FTC have had a significant impact, I think that Congress, not the courts, should be legislating in this area and we should not leave all of the important decisions to the administrative bodies.

The PRESIDING OFFICER. If I may interrupt the Senator, we have an order to recess at noon, and, in order to continue, the Senator will need to ask unanimous consent.

ORDER OF PROCEDURE

Mr. BOND. Mr. President, I ask unanimous consent to continue for 5 minutes.

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

Mr. BOND. Mr. President, I thank the Chair.

Mr. President, let me also put in a word of thanks to the credit bureaus, a group that does not normally receive thanks in this body, but they have taken steps to make the system more accurate, and we commend them for it. They have moved in the proper direction. But I do believe that legislation will still be needed. Congress must very soon address the concerns of accuracy

in the system and the need for consumer privacy. If my colleagues are in the same position as I am, they have undoubtedly heard from many, many people about their problems with credit reporting.

I believe that S. 783, as reported by the committee, addresses those concerns. It establishes a 30-day reinvestigation time period so consumers can resolve their disputes in credit reports in a timely manner. It requires employers to get an employee's consent before pulling the employee's credit report. It improves consumer disclosures so that consumers are informed of their rights whenever they receive their credit report and whenever adverse action is taken against them on the basis of their report.

It imposes duties on the furnishers of information so that they cannot furnish information to the credit bureau that they know is incomplete or inaccurate. And it imposes a civil liability on those furnishers who fail to fix a consumer's file when the consumer disputes information which has been furnished.

In addition, S. 783 applies a uniform Federal standard to govern certain parts of credit reporting and a section allowing consumers a free credit report every other year upon written request.

I think we have reached a reasonable compromise on these last two contentious issues. The bill preempts prescreening, information shared among affiliates, reinvestigation timetables, and certain disclosure forms.

I believe that in all of these areas there is a strong interstate commerce argument for having one standard. It will greatly simplify compliance with the act and lessen some of its burdens.

The bill also provides for a free report from the nationwide credit bureaus, upon written request, every other year. I think that allowing consumers to get a free report is a strong step toward making the system more accurate and protecting the rights of consumers.

It is a well-balanced bill. All interested parties get some things in the bill that they do not have in current law. The consumer groups get increased disclosure and a 30-day reinvestigation time period. The credit industry gets a limited Federal preemption, the ability to share information among affiliates, and broader prescreening and direct marketing abilities.

I realize there are issues in the bill which still need to be addressed. Senator BRYAN and I plan to fix the civil liability section to make it absolutely clear that there are only private causes of action against a furnisher after that furnisher has had an opportunity to reinvestigate and fix mistakes.

We have not tried at this time to amend S. 783. We recognize that these issues and others need to be addressed, and we intend to work with our colleagues both in this body and in the House on a bipartisan basis. And I hope that we will not be required to bring up this bill as an amendment to the interstate branching and banking bill but that we will be able to determine when there will be some time when we can go forward so that we can act on this bill and make sure that the protections and the badly needed update is made in Federal legislation in this vitally important area.

I thank the Chair.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. BRYAN. Mr. President, I ask unanimous consent that I might proceed for another 5 minutes. I recognize the time constraints of the Chair. I hope it will be less.

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

Mr. BRYAN. Mr. President, thank you very much.

Mr. President, I want to commend my colleague, Senator BOND, who has worked tirelessly over the past several years trying to craft a piece of legislation which, in my view, is the most important consumer protection legislation that we could offer in this session of the Congress.

I think we are extremely close to being there as a result of his leadership and support and that of our respective staffs and many with whom we have had occasion to work very closely over these past several years.

Mr. President, let me just embellish upon one additional point, and that is, we have been trying to get on this piece of legislation since last October, as my colleague and friend from Missouri has shared with us. We have been unable to do that. I hope that it will not be necessary for us to offer an amendment to this piece of legislation that is currently before the body because it is not my purpose to in any way prevent timely action upon it. But this legislation is extremely important.

On October 28 last year, the Senate Committee on Banking, Housing, and Urban Affairs marked up and reported out S. 783 by a vote of 15 to 4.

This amendment is the exact language of S. 783.

This legislation will improve the accuracy of the 450 million credit reports kept on about 90 percent of all Americans.

When the original Fair Credit Reporting Act was passed 20 years ago, it provided a number of important consumer protections.

In the intervening 20 years, the credit reporting industry has undergone dramatic changes—from keeping consumer information on handwritten file cards to computer tapes that are updated with billions of entries every month.

The time has come to update this law.

This act is one of the most significant actions we can take that will benefit consumers nationwide.

There are too many lives that are being adversely affected by inaccurate credit reports.

Even as we speak, people are being turned down for student loans, car loans, and mortgages—people are being turned down for jobs or promotions—all because of faulty information on credit reports.

Mr. President, I can attest personally that there were inaccuracies in my own credit report as I sought to refinance my home.

I was able to clear up the inaccuracies on my report without too much difficulty—but I am sure being a U.S. Senator did not hurt either. The average citizen does not have that ability.

I am not here to suggest, nor does my colleague from Missouri, that the people involved in the credit reporting business are irresponsible or disreputable. But the fact remains that there are 450 million credit files, 2 billion pieces of data each month, and that 1.5 million reports every day are sold. That volume lends itself to inaccuracies. And as Senator BOND has indicated, our legislation is simply designed to keep those mistakes to a minimum, and once they are filed to provide a corrective mechanism so that they can be found.

I do not believe that businesses engaged in credit reporting are disreputable, irresponsible firms.

These firms maintain 450 million credit files and must input 2 billion pieces of data each month and sell 1.5 million reports every day.

With that kind of volume there are bound to be mistakes.

The question then becomes how do we keep the mistakes to a minimum and how do we keep the mistakes to a minimum and how do we fix them once they are found? That is where our legislation comes into play.

First, to keep the mistakes to a minimum we must give the firms that furnish information to credit bureaus—the retailers, credit card companies, and mortgage companies—the incentives to supply as accurate information as possible.

Our legislation does just that by authorizing the Federal Trade Commission [FTC] to take action against businesses that have a practice or pattern of submitting inaccurate information.

Second, to fix mistakes when they are discovered our legislation sets up a reinvestigation process that makes it more consumer friendly.

I think most people are sympathetic to the fact that credit bureaus are going to make honest mistakes.

With a common last name like mine, I can relate to the difficulties a credit bureau faces trying to match up credit information with the proper file.

When I do think incenses people is the inconvenience they can be put through to get a mistake fixed.

I chaired hearings out in my State of Nevada and heard testimony from scores of individuals who were put through the ringer to get inaccurate information removed from their files.

People get mad when through no fault of their own, they are forced to spend countless hours calling and writing to get mistakes removed.

They are forced to track down hard-to-find records or prove some information on their file does not belong to them, a difficult task.

This can be both time consuming and frustrating. I know, I have been there.

If our legislation accomplishes nothing else, I intend that it will turn around the burden of proof so that credit bureaus and furnishers of information will be responsible for verifying the accuracy of information when an individual disputes it.

I cannot emphasize how important this is for consumers everywhere.

Another recurring problem is that mistakes keep reappearing on a person's report even after the individual has brought the inaccuracy to the credit bureau's attention.

Our bill would require the agency to notify the individual before reinserting data which has been previously removed.

Individuals would also be able to request a free copy of their report for 1 year afterwards to insure the mistake has not crept back in.

Our legislation has been carefully crafted so that it will not inhibit the flow of information to credit bureaus.

It recognizes that if information is cut off, the consumer ends up the loser.

That is why a delicate balance has been crafted to provide incentives to businesses to supply accurate information while not discouraging them from furnishing it.

Furnishers of information will not be liable for the routine mistakes that naturally occur when processing millions of data entries every month.

So, this amendment does not contemplate perfection, just a good faith effort to supply accurate information.

There are too many lives that are being adversely affected by inaccurate credit reports not too make every effort to improve the system.

Student loans, car loans, and mortgages and even job promotions, all hang in the balance because of faulty information on credit reports.

While we will never eliminate human error, or computer error for that matter, from the credit reporting process, I believe we can and should do better.

I yield the floor.

Mr. President, I thank my colleague who has been inconvenienced by my extended remarks, for his courtesy to me.

Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will stand in recess until the hour of 3 p.m.

Thereupon, the Senate, at 12:07 p.m. recessed until the hour of 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mrs. MURRAY].

The PRESIDING OFFICER. In my capacity as a Senator from the State of Washington, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

INTERSTATE BANKING AND BRANCHING ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1659

(Purpose: To require a GAO report)

Mr. FEINGOLD. Madam President, I have an amendment relating to a GAC report I would like to offer at this time. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 1659.

Mr. FEINGOLD. 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 in the bill, add the following new section:

SEC. . GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

Mr. FEINGOLD. Madam President, I have an amendment relating to a GAO report on the requirement for insured depository institutions to collect data in light of this legislation, which I understand will be accepted by the managers of the bill. As I indicated, this amendment would simply direct GAO to submit a report on data collection under interstate branching to determine if modifications to existing requirements should be implemented in light of the enactment of this legislation.

I appreciate the chairman's suggestion to perfect the amendment.

Madam President, I had intended to offer an amendment to S. 1963, the Interstate Banking and Branching Act of 1994, that related to continuing current law requirements for certain statements of condition. The information in those condition statements is useful to regulators and consumer groups in evaluating the performance of insured depository institutions, but in the new banking structures allowed under S. 1963, there may be significant gaps in the reporting that we currently require.

These gaps arise because of the nature of the new banking structures allowed in S. 1963. Because under current law, branches are allowed only in the same State as their home bank, these statements of condition, known as call reports, necessarily provided a State-by-State assessment of key financial institution activities. The potential for cross-State branching could undermine the ability of regulators and consumer groups to make such assessments on a State-by-State basis.

A central concern that many of us have with the proposed national interstate banking and branching legislation is the potential for a loss of critical banking services in some communities, as banks are purchased by large out-of-State institutions. Information provided in call reports can be useful in evaluating that kind of trend, and is all the more important as we move away from our traditional State-based banking system to a nationwide system.

Although I considered offering an amendment specifically requiring that, for institutions with assets over $1 billion, limited call reports be made on a State-by-State basis, I am persuaded that this matter should be examined in the larger context of the call reports themselves.

To that end, I will not offer my original amendment, but instead have offered language requiring that the General Accounting Office review the statutory and regulatory requirements for the collection and report of deposit and lending data, in consultation with regulators, consumers, community groups,

and representatives of insured institutions.

I hope this GAO analysis of the broader issue of call report information will help assess whether such requirements for State-by-State reporting should be mandated either by statute or regulation.

I appreciate the support of the managers for this amendment.

I yield the floor.

Mr. RIEGLE. Madam President, let me say to the Senator from Wisconsin that this is an amendment that I am prepared to accept. It has been cleared on the Republican side. I now urge its adoption without objection.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1659) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, first, let me commend the members of the Banking Committee, Senator RIEGLE particularly, who is on the floor, Senator D'AMATO, and Senator DODD, for bringing up what I consider long overdue, and that is the interstate banking bill. As Treasury Secretary Lloyd Bentsen said last year: "We currently have a de facto system of interstate banking. But it's a patchwork system, and it's clumsy."

I would certainly agree, Madam President, and I believe this bill will bring a degree of much needed rationality to the banking system and make our Nation's banks more competitive with their international counterparts. It is very important.

I was in the commercial banking business for 25 years, and I have observed the participation of foreign institutions doing business in the United States, their ability to compete with us, and, of course, the difficulty of our banks being allowed access to foreign countries on the basis of reciprocity. So we need to have a correction here that will bring our banking system more into conformity to compete with our international counterparts. Those counterparts in many cases do not have the same antitrust oversight that ours have.

Madam President, there is another aspect of the banking system that I personally think Congress should revisit. I know this is something that occasionally is misinterpreted when we talk about the Community Reinvestment Act of 1977, or the CRA, and the impact that the CRA has on community-owned banks which are owned by minorities. In our effort to try to ensure equity, we have an unworkable situation that really needs to be addressed.

When we adopted the Community Reinvestment Act, we did so with the intent of getting banks and other financial services institutions to better serve citizens living in communities where they operate. In particular, it was designed to encourage lending activity in poor communities, the low-income communities, and especially communities where there were large minority populations. Too often, we have heard of situations where large State and nationally chartered banks establish branches in and around low-income communities, collected their deposits, and then refused to provide loans to businesses and individuals living right around the corner from the branch. Obviously, that is wrong, and corrections were needed.

However, unlike large multi-State banks, small community banks generally receive their funds from the community where they operate and most often invest those funds back within the community. Yet small community banks are regulated by the same set of rules under the Community Reinvestment Act as large banks which have branch offices in many different communities that have greater opportunity to invest selectively in any part of the country or, for that matter, abroad.

By their very nature, most small community banks try to conform to the spirit of the Community Reinvestment Act, and yet they have to abide by the onerous burdens imposed by the Community Reinvestment Act. In a recent study of community banks, it was found that community banks have to spend more than $1 billion annually to comply with the Community Reinvestment Act. Imagine that, Madam President, $1 billion it cost these small community banks to comply with these regulations. The cost of establishing the sophisticated CRA compliance program is especially burdensome to small community bankers and places them at a competitive disadvantage with their larger competitors. If community banks have to pass on their costs to their customers for this CRA compliance, their customers are simply going to move. They are going to go to the larger banks that have branches in the surrounding areas because they can better absorb the cost of the compliance. Clearly, the larger banks can absorb the cost of compliance. The smaller bank cannot and, as a consequence, have to pass it on.

The real issue is whether the paperwork and outreach requirements imposed by the CRA make any sense, especially in the case of community banks owned by minorities. We have encouraged lending in poor and minority communities by providing preferences to minority-owned banks. Fine. That is as it should be. That reflects the real world reality that many minority-owned lending institutions are more willing to provide loans to minority members than are large multi-State banks.

And it is a reality that many members of minority groups feel more comfortable doing business with a bank with the same ethnic heritage. We can certainly understand that. It may not be the way we would like to have the banking world operate—or businesses, for that matter—but it is a known fact. I know of many cases where immigrants from Korea, Taiwan, and China have come to this country looking to make a better life and have found that the most comfortable way is using a bank owned by Asian-Americans to transact business. Language and cultural barriers are minimized when they do business with such banks, and they perceive having a better chance of receiving a loan from such a bank that understands them and is interested, obviously, in their establishing themselves here in America.

I have heard the same story told about African-American citizens. Many minority groups believe they have a better chance of getting a loan to start a business or buy a house if they are dealing with a bank that is owned by members with similar ethnic backgrounds. Many of these minority-owned banks want to make loans to members of their ethnic group.

Last year, two senior executive officers of African-American-owned banks in Los Angeles wrote to the Los Angeles Times confirming this view, and let me quote from their letter to the Times:

> As minority bankers, we are well aware that minority banks were formed specifically to lend to minority applicants who were overlooked by more mainstream institutions. Asian-American banks tend to lend to Asian-American applicants, and African-American banks tend to lend to African-American applicants—because those applicants often have nowhere else to turn.

Madam President, that is the reality of minority banking. It will continue to be.

That brings me back to the Community Reinvestment Act and the accompanying regulations.

The minority-owned bank must make overt efforts to reach out to all groups in the community where it is operating, and is judged by the same standards for community reinvestment as nonminority-owned institutions.

Imagine in Los Angeles, Madam President, under the Community Reinvestment Act, a small community-owned bank, serving an ethnic district has to show that it is trying to solicit business from outside that area in the same manner that any other national bank with many branches in Los Angeles is trying to do. It is an impossibility. It is an inconsistency. It is not practical. It makes all community-owned banks less competitive and real-

ly achieves no other purpose, other than increasing their costs.

For example, Madam President, a Hispanic-owned bank operating in a community that has a large population of Asian Americans, as an example, must make significant efforts to provide services to the Asian community. That may require placing ads in local Chinese-, Japanese-language newspapers, contacting local Chinese and Japanese community groups, and making other outreach efforts to serve the financial needs of this community.

That would be the mandated effort under the act of a Hispanic-owned bank, say in Los Angeles. It has to reach out beyond the minority it serves and prove that it is attempting to serve Asian-Americans, Japanese, Chinese and so forth. That is really an impracticality and one I am inclined to generalize. But I feel the Banking Committee has overlooked this, in its efforts in this regard to bring about substantive changes in our banking regulations.

Of course the same is true for an Asian-American bank operating in a community composed of groups of Asian-Americans, Mexican-Americans, and African-Americans. From what I have learned from speaking to minority bankers in some of these communities, the result of these outreach programs have been very discouraging and very costly. Time and money has been spent on bridging cultures, and produces very little, if any, new opportunities for these minority-owned banks. Resources that could be better be spent on servicing the ethnic group reflecting the minority owners is diverted into a futile effort to bridge ethnic groups.

One Asian-American bank in Los Angeles—I might add an Asian-American-owned bank—has written to me to indicate its efforts to penetrate the Hispanic and African-American communities. Since 1992 the bank has advertised continually in local newspapers in different languages. The bank has participated in community development programs and has had regular contact with community groups, local governments, nonprofit developers, to ascertain the credit needs of these communities and minority groups. After a year of effort the bank received one response from the Hispanic community; none from the African-American community. This is a Chinese ethnic bank, serving Chinese-Americans in Los Angeles. But it is forced to move out into the Hispanic area and African-American community, to comply with this law.

These are the facts. Minority-owned banks are trying to meet the standards imposed by the CRA, but for cultural reasons they simply find they cannot get into business with other minority groups. Yet at the same time these minority-owned banks are servicing the very minority populations that they are closest to, and doing a good job. These are often the same minority groups that would have difficulty gaining credit from other lenders, and for that reason we encourage minority ownership of banks. That is the basic reason. It is unfair and inefficient to penalize minority-owned banks with the same standards that we impose on other banks in this regard.

If they are serving ethnic minorities, whether the minority borrower is around the corner from the bank or across the city should make no difference under this regulation. In many cases, if the minority-owned banks do not make a loan to the minority borrower, the borrower might have nowhere else to turn for the credit.

Many minority-owned banks are very concerned about what else they can do to meet this CRA standard. Their fear is exacerbated that pending regulations would impose civil penalties against banks that receive a composite CRA rating of substantial noncompliance. Frankly, there is no basis for this regulatory proposal since the CRA provides only one specific sanction for a poor CRA record—the agency may condition or deny an application for a deposit facility by the bank, or a branch bank for that matter.

I ask the floor managers if they have given any consideration to this dilemma relative to the service that the minority banks are providing in the community and the fact that there is no practical way they can comply with the CRA mandate because they are limited to service within the community and the minorities that they serve? To have to show evidence that they are effectively soliciting and generating business outside, that seems to be an inconsistency that the legislation that has been proposed has overlooked.

I am hesitant to offer an amendment because I know the chairman of the Banking Committee is attempting to move this legislation along, but I really feel in this sense we have a void, and I would appreciate any comments or consideration he might give this matter with the assurance they try to consider the inequity and injustice that is before us.

I would appreciate any remarks of the chairman.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Madam President, let me respond to the Senator from Alaska. I think he makes an important point, a valuable point. We have asked the bank regulators to look at the CRA and to concentrate on performance rather than forms and paperwork per se. They are in the process of reviewing and revising the method by which those objectives are pursued by banks.

I think in the situation that the Senator cites, there are special factors and considerations that apply there. The Senator's point is well taken. It will be part of this debate. We will see to it that the regulators pay attention to the issues that my colleague has raised, to see what might be done about it.

Mr. MURKOWSKI. I appreciate the comments of the chairman of the Banking Committee. I think it is important for the regulators, the examiners, to recognize the merits of the job a minority bank is doing in meeting the credit needs of the minority community.

Mr. RIEGLE. Right.

Mr. MURKOWSKI. To expect them to be very effective outside that puts them at a great disadvantage. I hope we can see within the interpretive language of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, some language that would address this inconsistency, because I have heard from those regulators and they, too, have a degree of frustration because they are mandated under the act. Yet the realities are that many of these small community banks do a good service. It puts them at an unfair disadvantage to be measured by a ruler that simply is unrealistic.

If the chairman can give me that assurance the legislative language or intent will recognize this, I will not proceed with my proposed amendment.

Mr. RIEGLE. Let me continue by saying I will take the issue up with the regulators. We will see what can be done. They are in the process right now of attempting to reevaluate how the CRA process is applied and made to work and is measured. I think there is, as the Senator says, an anomaly here. There is an inherent contradiction, if you will, when you get outside the minority interests that a specialized institution of the kind the Senator cites is aimed at.

So let us pursue it that way. I think that is probably the best way to try to respond to the concern the Senator has raised.

Mr. MURKOWSKI. I appreciate the spirit under which the chairman took my remarks and look forward to some enlightenment from the regulators.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1660

(Purpose: To clarify the statute of limitations for actions brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver)

Mr. METZENBAUM. Madam President, I send an amendment to the desk

and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1660.

Mr. METZENBAUM. 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 26, after line 18, insert the following new title:

TITLE II—BANK AND THRIFT STATUTE OF LIMITATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 202. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(B)(i)) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment"

SEC. 203. APPLICABILITY.

The amendment made by section 202 shall apply to all actions pending or brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver on or after August 9, 1989.

On page 1, between lines 2 and 3, insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 1, line 4, strike "Act" and insert "title".

Mr. METZENBAUM. Madam President, this amendment will protect over $1.6 billion in RTC and FDIC claims in the courts.

Two weeks ago, the Acting Chairman of the FDIC, Mr. Andrew Hove, Jr., sent a letter to Senator RIEGLE, with a copy to myself, asking for this legislation. Two days later, the RTC's Acting Chief Executive Officer, Mr. John Ryan, also sent a letter asking for legislation.

The FDIC letter said that $500 million in existing FDIC lawsuits was threatened unless we pass legislation.

The RTC letter said that over $1.1 billion in RTC claims against officers and directors who are culpable in the failure of savings and loans is at risk without this legislation.

The RTC letter also said that without legislation, the statute of limitations legislation that we recently passed is in jeopardy. I think this is important to many of my colleagues.

The RTC said that our two recent extensions of the Federal statute of limitations are imperiled. These extensions were in December's RTC Completion Act and in February legislation—authored by Senator D'AMATO and myself—in response to the Whitewater-Madison Savings and Loan floor debate.

I know that Senator D'AMATO feels strongly about this problem, because on April 14, he introduced a bill, S. 2021, containing the language of this amendment. I am an original cosponsor with Senator D'AMATO, along with Senators JOHN KERRY and DONALD RIEGLE.

When he introduced the bill, Senator D'AMATO said that he was concerned about its retroactivity. I want to tell my colleague from New York that there is no legal impediment to the retroactive application of nonsubstantive civil law, such as this amendment.

Let me also assure my colleague that, under this amendment, defendants cannot be sued for acts that were not illegal at the time they committed them. No one will wake up and find themselves sued for something that was not illegal when they committed it. All this amendment does is give the Government extra time to discover previous wrongdoing and file suit.

This amendment is necessary because recent Federal court decisions have created a deplorable situation. Federal courts have dismissed FDIC and RTC lawsuits against officers and directors of failed S&L's and banks who were clearly involved in misconduct.

I want to repeat that. Federal courts have dismissed FDIC and RTC lawsuits against officers and directors of failed savings and loans and banks who were clearly involved in misconduct.

Unfortunately, because of these recent court decisions, the wrongdoers will never have to pay for their wrongdoing. Who do you think will pay? The same crowd that always has to pay: The taxpayers will pay.

The reason has nothing to do with the merits of the cases. The reason is that a State statute of limitations expired before the FDIC took over the thrift or bank. That gets pretty technical; if the State statute expires, the Federal statute does not attach.

We have a Federal statute of limitations, which we enacted in FIRREA. Unfortunately, many Federal courts have interpreted FIRREA to require that the State statute of limitations must be unexpired before the Federal statute of limitations can take effect. I believe those courts misjudged in those cases. In effect, the Federal statute must attach to an unexpired, State statute. That is something we did not intend when we adopted FIRREA, and it should not be the law.

The language of FIRREA says that the Federal statute of limitations "begins to run * * * on the later of," one, the date that the thrift is taken over by the Federal Government, or, two, the date the cause of action accrues.

Clearly, Congress meant by this that the statute of limitations cannot run before the RTC or FDIC takes over. Nonetheless, more and more courts have interpreted FIRREA to require that the State statute of limitations not have expired when the RTC or FDIC takes over.

We did not contemplate this when we passed FIRREA. In fact, the FIRREA conference committee rejected a provision that would have said that FIRREA would not revive claims under expired State statutes of limitation.

To let the present situation continue is manifestly unfair to the taxpayer who must pay the bill when wrongdoers cannot be sued.

This is not something we can put off. My colleagues on the Banking Committee and others are suggesting this is not quite the time, but this is an urgent matter. The FDIC and the RTC are losing cases almost every week because of these court decisions. They are asking us to help them. They are trying to do their job as Government officials, trying to hold people responsible who should be held responsible, and we have an obligation to vote favorably and adopt this amendment in order to protect the taxpayers' interests.

We can talk all we want over here about balancing the budget. We can talk about all the things we are doing to save taxpayers money, but if we do not adopt this amendment, we are letting billions of dollars, about $1.5 billion, fly out the door, and the taxpayers will be Mr. and Mrs. Sucker. He or she will be stuck holding the bill.

Thus far, 50 cases have been affected.

This amendment is very simple. It does two things. First, it clarifies that Congress, when it passed FIRREA, intended the Federal statute of limitations to run without having to attach to an unexpired State statute of limitations. Second, it limits the revival of any claim whose statute of limitations has expired under State law. This amendment says that claims which expired under State statute of limitations law more than 5 years before the FDIC or RTC took over a thrift or bank may not be brought. Claims cannot be revived more than 5 years before the RTC or FDIC take over. That protects taxpayers. It starts with the $1.6 billion in existing lawsuits against failed banks and savings and loan office directors that the RTC and FDIC say is at risk if we do not pass corrective legislation.

Clearly, we cannot wait for separate legislation. With a simple two-sentence clarification, $1.6 billion in claims can be protected.

Now, my friend, the chairman of the committee, and others have suggested to me that the Banking Committee wants a clean bill. Well, I wish to have a clean sweep of all the dollars that are owed to the taxpayers of this country by officers and directors who were guilty of wrongdoing and ripped off the RTC or the FDIC.

The RTC has already spoken on the need for this legislation, as part of the Banking Committee's annual RTC oversight hearing. The FDIC acting chairman has asked this committee, the Banking Committee—in fact, he urged the committee—to "propose" and "promote" this legislation. His words, not mine—"propose and promote." His letter says that "without such legislation, more and more RTC and FDIC professional liability cases will continue to be dismissed on the technicality of the statute of limitations having run before the institution failed." That is his quote—"on the technicality of the statute of limitations having run before the institution failed," before the RTC or FDIC could even get in there.

The present situation is simply inequitable, unfair to the taxpayers. Let me give you an example that illustrates the unfairness of the current situation. Last month, in Tyler, TX, in the case of FDIC versus Henderson, the case went to trial before a Federal jury. The jury found that the defendant was grossly negligent and in breach of his fiduciary duties in connection with the failure of two thrifts. The defendant, a Mr. John Henderson, was the president, the chairman, and the largest stockholder of the thrifts. Mr. Henderson was clearly in control of the failed thrifts. He was the only board member to attend board meetings for almost 2 years. In fact, he was the only board member despite a Texas State law that requires five board members. In order to cover up this failure, Mr. Henderson had the minutes of the board of directors create the impression there were several board members present. Things were so bad that the jury found Henderson liable to the Federal taxpayers for $7 million in damages resulting from his grossly negligent behavior.

But at the same time the jury concluded that, because of the recent Federal cases which require that State statutes of limitation not be expired before the Federal statute of limitations takes hold, Mr. Henderson could not be held accountable for his demonstrable wrongdoing. The Texas 2-year State statute of limitations had run before the FDIC took over the thrift.

Let me give you the picture. Before the FDIC took over, Mr. Henderson was in control. He was the sole board member attending board meetings. He was the largest single shareholder. He was the chairman of the board. He was in total control. And he milked from this savings and loan an amount that the jury found to be $7 million.

Now, the FDIC comes in at a later point when the thrift goes belly up, or prior to its actually going belly up, and takes over, and the thrift says, well, the reason for much of this loss relates directly to Mr. Henderson's conduct.

So they sue Mr. Henderson, and Mr. Henderson, largest shareholder, chairman of the board, only member of the board attending the meetings for 2 years, comes in and says, "I have a defense. The State statute expired long before the FDIC took over."

That is unfair. It is unfair to the taxpayers. Mr. Henderson acted in a grossly negligent manner when he controlled the thrift. His gross negligence cost innocent taxpayers millions in losses, yet he cannot be brought to justice. Instead, innocent taxpayers will have to pay. Mr. Henderson squandered the thrift's money, which has to be made up by the taxpayers, on risky loans. He squandered the thrift's money on outrageous personal benefits and accouterments, and he will not have to pay back a single penny.

Why should Mr. Henderson get off on a technicality? While the thrift was losing almost a quarter of a million dollars a month, he spent the thrift's money on luxury cars and four $2 million airplanes for his own personal use. He had the thrift buy him a specially equipped $75,000 BMW. Other cars, including a Mercedes, were kept at Henderson's ranch some 300 miles from the thrift where there was no way they could be used for thrift-related work. Henderson even had the thrift buy him a $2 million jet, which he used to fly back and forth to the ranch for lunch—for lunch—all at the taxpayers' expense. A $2 million taxpayer-financed plane to fly home for lunch. There is another way to describe it. Mr. Henderson was, indeed, taking the taxpayers for a ride.

Unfortunately, because of these recent court decisions, Mr. Henderson is going to get away with it without repaying a dime. Why should the $35,000-a-year worker who works hard, struggles to pay his or her Federal income taxes, and barely makes it have to pay for Mr. Henderson's jet? I say to my colleagues, this case illustrates why we need this amendment.

I could give you a number of other examples. Who is more culpable, the innocent taxpayer or Mr. Henderson with his $2 million lunches?

I ask my colleagues to support fairness, to support this amendment, and I wish to point out that this amendment has been offered as a separate bill cosponsored by Senator RIEGLE, Senator D'AMATO, Senator KERRY, and myself. The RTC and the FDIC say we need it. Without it, our recent extensions of the Federal statute of limitations are in peril. With two simple sentences, merely clarifying what we already passed, and one rollcall vote, we can correct this problem and protect over $1.5 billion in taxpayer money. I ask my colleagues to join me and vote for this amendment.

I yield the floor.

Mr. RIEGLE. Madam President, the Senator from Ohio, as he has on a number of other occasions, has importantly highlighted this issue and this problem.

I ask unanimous consent that at the end of my remarks the letter from the FDIC dated April 11, 1994, be printed in the RECORD.

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

(See exhibit 1.)

Mr. RIEGLE. Madam President, that letter requests that we introduce this legislation at their initiation. We have done so. We introduced it "by request," which is the phrase we use in situations like that. Senator D'AMATO, the ranking minority member, joined me in responding to that request from the FDIC. But I hasten to add that we have not had any legislative hearings, as you might expect, because this letter is as recent as just a few days ago.

So let me tell you that I introduced it not only because of the request from the FDIC, but I support the substance of the request. I support the extension myself. So I agree with the Senator from Ohio on the substance of the issue.

Let me tell you one problem we have with it, however. As I am sure the Senator knows, this issue legislatively is not within our jurisdiction with respect to what will have to happen on the House side. The Judiciary Committee in the House will have to be involved in this issue. So it is outside the scope of our counterpart Banking Committee on the other body.

One of the concerns that I have is that anything that we attach to this bill—which is a banking bill and a vote in the Banking Committee—in turn has to be set off by a second and different committee in the House, which always poses problems for us, as the Senator from Ohio knows. He is smiling because he can recall any number of cases where that has happened. I fully expect that it may happen in this case, as it has before, assuming that this were to be attached here.

So that is a matter of some concern to me just as the manager of the bill, because I want to get the bill through, and I do not want to run into complications that are of a jurisdictional sort on the House side for that reason.

We have in the past voted on extensions on a number of occasions, not precisely as drafted in this instance. But just for the record, on March 26, 1992, on September 8, 1992, on September 25, 1992, then in 1993 on May 13, and then again this year on February 9, on those five occasions we have all had to deal with and vote on amendments or provisions regarding the statute of limitations and the extension. I have supported that all five times because I feel strongly about it for many of the reasons that the Senator from Ohio has stated. But I do see this complication in terms of the jurisdiction. I make that point.

As I said, or meant to say, we have not had time yet to have legislative hearings on this issue in the committee

because, as I say, we have just introduced this by request just in the last few days.

Let me yield the floor at this point.

EXHIBIT 1

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, April 11, 1994.

HON. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to bring to your attention concerns that the Federal Deposit Insurance Corporation has with respect to recent court decisions interpreting the statute of limitations governing actions brought by the FDIC and the Resolution Trust Corporation as receiver or conservator of failed institutions.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) provides that the statute of limitations for tort claims brought by the FDIC and the RTC as conservator or receiver is the longer of three years or the period applicable under state law. FIRREA also clearly states that the date on which the statute of limitations begins to run is the later of the date of the appointment of the Corporation as conservator or receiver or the date on which the cause of action accrues. Nevertheless, the courts have added the further requirement that the claim must not be barred under state law at the time the FDIC takes over.

As described in the enclosed analysis of the issue, we believe the courts have incorrectly applied the statute of limitations that was established under FIRREA. Also enclosed is legislation intended to clarify FIRREA with respect to this issue. How the statute of limitations is computed is critical to the FDIC's mission to hold bank and thrift officials and professionals accountable and to maximize recoveries from failed institutions. We estimate that over $500 million in claims in pending lawsuits involving FDIC and old FSLIC receiverships, and millions more for claims still under investigation, are at risk for dismissal on statute of limitations grounds if the proposed legislation is not enacted. We understand that claims of the same general order of magnitude involving RTC receiverships are similarly at risk.

I urge you to introduce the proposed legislation and to promote its passage. Legislation to clarify the statute of limitations is critical to allowing the FDIC and the RTC to fulfill their missions to hold wrongdoers accountable and to recover losses for the insurance funds and the taxpayers. Without such legislation, more and more RTC and FDIC professional liability cases will continue to be dismissed on the "technicality" of the statute of limitations having run before the institution failed. Such legislation is important not only to maximize recoveries involving institutions that failed in the past but also to ensure the orderly resolution of institutions that may fail in the future.

Please let me know if you have any questions or need assistance with respect to our proposal.

ANDREW C. HOVE, Jr.,
Acting Chairman.

Mr. D'AMATO. Madam President, I think the chairman has articulated the situation well. I would be hard pressed to maintain opposition.

I want to be very candid to the Senator from Ohio regarding his amendment. Given the fact that we have extended the statute of limitations unanimously—or just nearly unanimously—in this body as it related to the RTC, and notwithstanding that the FDIC has sent a letter indicating that they are not supportive, I think that the overwhelming sentiment of the body would be to go forward.

Therefore, I will not oppose. As I think the chairman has quite accurately portrayed the situation that the House, as it relates to jurisdiction, may not, and indeed the chairman of the Judiciary Committee in all likelihood will raise opposition.

Again, I would say to both the chairman and to the distinguished Senator from Ohio that I will raise no opposition to this amendment here at this time, nor will I raise opposition to the amendment in conference. I will call for its adoption in conference. But again, to be very candid, because I do not want to say one thing to my colleague—and I think he knows we may agree or disagree on a number of issues—I do not say one thing to him today and do another thing tomorrow.

I am a cosponsor of the original bill, the original legislation. But I am fearful that in the final analysis we may not be successful in getting the House to accept this. But I will go forward in a good-faith effort provided that it does not —as long as he understands that it does not—ultimately jeopardize final passage of the bill.

I think he understands if I say that, I will make a good-faith effort to see that it is retained. I will do that. But up to the point that if indeed the House is in opposition and will not act on it because of the various committee jurisdictions and the disputes as it relates to that, then at that point I will feel constrained to yield to the House.

I do not know. Maybe the House will accept this. It is not without precedent. The Senator knows the various players and Members. He has dealt with them through the years over there. I think he will probably reach out and contact the chairman of the Judiciary Committee and see if he cannot get them to acquiesce.

So I say to him in all good faith that I will do nothing to attempt to impede this when it gets over to conference. I join with my colleague, if the Senator wants to urge adoption.

Mr. RIEGLE. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1660) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the role.

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

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

Mr. D'AMATO. Mr. President, while the Senator from Ohio is contemplating if he is ready to go forward—and if he is, I will resist going forward—I will make a statement relating to the Fair Housing Act, and advertising under the Fair Housing Act.

Mr. President, I rise today to call attention to a troubling situation concerning the Fair Housing Act. It was originally designed to ensure decent, safe, and affordable housing for all Americans. The act is now being cited as an impediment to the ordinary and everyday process of advertising a home or property for sale, rent, or lease.

The Federal Fair Housing Act bars discrimination against families with children and the disabled on the basis of a potential tenant's race, religion, national origin, or gender.

Unfortunately, the interpretation of this fundamental principle has led us into the world of uncertainty over what is indeed fair when it comes to advertising property.

The realtor associations and newspaper organizations around the country are sending out warnings to their members that they need to be very, very sensitive to words, phrases, and statements that relate to people and that might be construed to be discriminatory. Fair housing advocates are poring over real estate sections in local newspapers looking for anything that might be perceived as steering minority communities away from the advertised property or community.

From New York to Ohio, Oregon to Kentucky, Iowa and Virginia, newspapers are facing lawsuits or complaints alleging they have printed discriminatory ads.

In Oregon, a fair housing advocacy group filed complaints last year against more than a dozen of the State's newspapers. Without admitting guilt, the newspapers nonetheless agreed to pay the council $25,000 and provide $42,000 worth of free advertising to publicize the Fair Housing Act. As a result, the Oregon Newspaper Publishers Association now has a special guidebook for members, and one Oregon landlord organization has developed a list of troublesome words that could lead to problems. Among other things, the publisher's guidebook warns that a home advertised as "perfect for running, biking professional" may run afoul of the Fair Housing Act because it discriminates against the handicapped.

In Dubuque, IA, a newspaper agreed to pay $1,000 and run a series on fair

housing issues after local activists complained about four ads. In one of the ads, the advertiser used the phrase "two-person occupancy" in a description of a two-bedroom apartment.

Mr. President, these cases raise an interesting dilemma for anyone who tries to market a property: You could be liable under the Fair Housing Act for something that might not be discriminatory nor intentional.

Hundreds of cases have been filed by individuals and organizations using the Fair Housing Act as the cornerstone of their legal battle. Many of these cases are legitimate, but some have been frivolous. Are we in for a flood of litigation because of the way in which the Fair Housing Act is being interpreted?

If you say your home is "close to the best schools," is that discriminatory? If you advertise a property in an "exclusive neighborhood," is that indicative of a racial bias? If the home or apartment is "perfect for singles," does that discriminate against families with children? Even the word "executive" has been cited in complaints.

Unfortunately, the only way to be safe is to simply describe a property in the basic sense. But I ask you, Mr. President, is that fair? Should realtors and property owners be forced to overcomply with the law simply to avoid litigation? Should newspapers be in the business of policing classified ads to see that the Fair Housing Act is being followed?

Even a newspaper's first amendment protection is no match for the Federal Fair Housing Act. So far, this problem is limited to residential real estate advertising.

I support the goal of the Fair Housing Act to reduce discrimination in the buying, selling, and rental of real estate. Nevertheless, this effort is fraught with danger. Since the risk of being sued has never been greater, all sellers and landlords who are planning to publish an ad should first get the help of a veteran real estate agent, advertising specialist, or lawyer. One wrong word, and they may be headed for court.

All publishers of advertisements, advertising agents, and firms engaged in the sale, rental, or financing of real estate are required to provide a printed copy of their nondiscrimination policy to employees and clients.

It is hard to believe that we have, in America, a list of words that cannot be used to protect newspapers, realtors, landlords, anyone who has something to publish from ending up in court. But we do. Some of those awful words and phrases are "physically fit," "mature," "families," "adults," "bachelor," "retired," and the list goes on and on. The word "privacy" is even prohibited, according to the Oregon guidebook.

Should we also be concerned about terms like "active," "desirable neighborhood," "handyman's dream," "quiet neighborhood," "sophisticated," and "within walking distance of"? What about "fisherman's retreat"? Could that be construed to be discriminatory against nonfishermen? Against women who fish? It is absurd, but it is all possible under the Fair Housing Act.

This trend is to promote lists of acceptable and unacceptable words for advertisers. But I am very concerned about the way we are interpreting the Fair Housing Act and worry that it may not end with real estate ads. It may not affect you now, but where do we go from here?

Mr. President, a real estate developer of single-family housing expressed to me that he was concerned that newspapers have turned his ads down because he wanted to advertise a "master bedroom," "walk-in closet," or "in close proximity to churches and temples."

If indeed we are reaching this point of absurdity, and it is absurd, we are at total variance with what the Fair Housing Act is and should be about. It should be about seeing that there is no discrimination.

I suggest that if we get into the business of saying that "walk-in closet" may somehow connote that it does not take into consideration the handicapped and that this should be on the list of proscribed no-nos, this becomes a rather dangerous precedent and one that I think is well beyond the intent of Congress, and I would hope that HUD will be sensitive to the realities of the world and not attempt to stifle free speech in such a way.

Free speech is at the core of this. Long Island and probably many other communities came about many years ago initially as a result of communities being in close proximity to mass transportation—at that time it was the Long Island Railroad, and it was very desirable to have a home within walking distance of this railroad, as it still is in many communities. Have we become so paranoid with political correctness that we cannot say "walking distance" because somehow that would be interpreted as not being inclusive or aware of the handicapped and their needs? If so, I would say to you that it is a great perversion of what the law should be about.

My staff has contacted the Department of Housing and Urban Development and made them aware of these concerns which have been brought to my attention by many people in the real estate and housing industry. HUD must look carefully at this and not make a mockery of a very important law, a law against discrimination that should be enforced with vigor but not reach so far as to make it a sham.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1661

(Purpose: To amend provisions of the bill relating to State decisions to allow or prohibit interstate branching, and for other purposes)

Mr. RIEGLE. Mr. President, a number of Senators have been working with me and Senator D'AMATO to try to perfect an amendment, and we resolved that issue. It is the major issue that we have been dealing with over the last few hours.

I want to give a brief explanation and send it to the desk on behalf of Senator D'AMATO and myself.

In developing this amendment, I have worked not only with Senator D'AMATO, but with Senator GRAHAM of Florida; Senator ROTH; Senator FEINGOLD, who is here and expressed a keen interest in this; Senator SIMPSON; Senator KERREY; and Senator CAMPBELL, a member of the committee. All of those Senators are listed as cosponsors of this amendment.

We have discussed the amendment that I will be sending to the desk with the administration, and they do not object to it.

This amendment would extend until June 1, 1997, the time period for which States can decide whether to opt out of the interstate combination provisions of the bill. This would essentially extend the time period for an additional year as compared to what was provided in the reported bill. This amendment responds to concerns of some States and their Senators that the State legislatures need a sufficient period of time to consider legislative changes that might be needed at the State level in preparation for interstate branching.

I now send the amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan, [Mr. RIEGLE], for himself, Mr. D'AMATO, Mr GRAHAM, Mr. ROTH, Mr. FEINGOLD, Mr. SIMPSON, Mr. KERREY, and Mr. CAMPBELL proposes an amendment numbered 1661.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 6, strike lines 10 through 12, and insert the following:

"(A) COMBINATIONS AUTHORIZED.—Beginning on June 1, 1997, a bank holding company having".

On page 11, line 6, insert "and prior to June 1, 1997," before "that applies".

On page 11, lines 17 and 18, strike "LAWS ENACTED SUBSEQUENT TO AUTHORIZATION DATE.—" and insert "EFFECT OF STATE ELECTION.—".

Beginning with page 11, line 25, strike "during the 2-year period beginning on the

date of enactment of this subsection" and insert "prior to June 1, 1997".

On page 12, strike lines 19 through 23 and insert the following:

"performance beyond June 1, 1997.

"(8) COMBINATIONS AFTER JUNE 1, 1997.—A STATE DESCRIBED IN PARA—".

Mr. RIEGLE. Mr. President, I do not know if the ranking minority member wants to make a comment—perhaps the Senator from Wisconsin does—but we would be prepared to move on this quite rapidly.

Mr. D'AMATO. Mr. President, I am very pleased to be able to support this amendment. I think it makes ample sense.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I would like to thank the manager very much for bringing this amendment forward. It is something I have been working on with people from Wisconsin, including the Governor, who thought this would be very helpful.

As the manager suggested, this would simply extend from 2 years, which is the current period suggested, to a date certain, June 1, 1997, the period of time during which States could opt out of interstate branching. The additional time is necessary to allow State legislatures the opportunity to enact State legislation which will provide the framework for the new system.

Because a number of State legislatures will not be in session after July 31, it is important that these kinds of complex issues have some legislative time at the State level.

This change is supported by the National Governors Association.

Mr. President, I ask unanimous consent that a letter from the Governor of Wisconsin, Tommy Thompson, regarding this issue be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. FEINGOLD. I also want to add, Mr. President, that even with this change, any State can enact interstate branching before this time period, before June 1, 1997. They are free to move forward as rapidly as they wish.

All this amendment does is simply give those States, especially rural States where legislatures are not in continuous session, a little more time to respond in a comprehensive and responsible fashion.

So I, again, am very grateful to the manager for his cooperation and help in making this possible.

I yield the floor.

EXHIBIT 1

STATE OF WISCONSIN,
April 19, 1994.

Hon. RUSSELL FEINGOLD,
Hart Senate Building, Washington, DC.

DEAR SENATOR FEINGOLD: I would like to bring to your attention my concerns about the interstate branching legislation and urge you to support amendments that would protect state revenues and regulatory interests.

The current Senate bill (S. 1963) does neither. The legislation authorizes interstate branching unless a state opts out within a two year time period. States, at a minimum, need a three year time frame before implementation of this bill in order to amend state tax and banking laws affected by federal legislation. After May 31st of this year, 37 state legislatures will not be in session and will not be able to initiate the necessary changes. Unless our state tax laws are amended, Wisconsin stands to lose significant revenue when interstate branching occurs.

In addition, the bill does not specifically preserve the rights of states to apply state laws to the branches of national banks. This legislation could override state regulatory and consumer laws. State sovereignty requires that states have the ability to affect banking operations within their borders.

Most importantly, all banks within the state should be subject to the same rules. Banks moving into Wisconsin to do business should follow the same laws as local banks.

The state of Wisconsin will benefit from your support of any amendments that provide states three years to consider interstate branching and that ensure interstate branches of out-of-state banks are subject to the laws of our state just like state-chartered banks.

Please call me or Robert Cook (202-624-5870) if you have any questions regarding the effect of this legislation on Wisconsin.

Sincerely,

TOMMY G. THOMPSON,
Governor.

Mr. ROTH. Mr. President, I am pleased to join Senators RIEGLE and D'AMATO in offering this amendment because I am concerned that States will not have adequate time to respond to the very fundamental questions posed for them by this bill.

As Secretary Bentsen emphasized, we should "continue to leave it entirely to the States to decide if they don't want out-of-state banks doing business within their borders." That makes sense to me. Unfortunately, as the bill is currently drafted, States would have just 2 years to enact legislation prohibiting interstate branching if they so chose. If a State does not act in that time, banks within the State can begin to consolidate their operations across State lines. This presents particular difficulties in States where legislatures do not meet each year. Of course, a State may address the issue in later years, but the horse is already out of the barn. Under the legislation it is not possible to reverse any consolidation that has lawfully taken place.

Because there are so many factors that each State's policymakers must take into account in formulating a decision, not the least of which is the revenue consequences, the Governors and the State legislatures have requested that they be given 3 years instead of 2 to make their initial choices. I would think they are the experts on how much time they need and that as representatives of the States in the Congress, we should be deferential on such a matter. They seem to grasp the reality that the choices given by the bill are not simple. The ramifications are many; the politics, intense; the revenue consequences, serious.

During deliberations in the Banking Committee, I had pressed for 3 years and was pleased that the bill which at the time provided only 1 year to decide was amended to 2 years. At that time I reserved my right to support a 3-year amendment on the floor, and I am pleased to do so now as a cosponsor of the amendment to extend the opt-out period until June 1, 1997.

I had argued in committee—and I repeat here—that the 2-year provision in the bill may very well be self-defeating for the proponents of the legislation. Constrained by a short period of time, and 2 years for a dozen States actually translates into a few months, many States may protect themselves by opting out so that they then have forever to decide. I respectfully suggest that forever is longer than 3 years or until June 1, 1997, and that the proponents should find it in their interests to accept this amendment.

The amendment we introduce today will ensure adequate time is granted for States to fully consider the merits of interstate branching, its impact on State tax revenue, and its effect on the consumer. I strongly support the change and urge swift adoption of this amendment.

Mr. RIEGLE. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1661) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1662

(Purpose: To establish the National Commission on Financial Services)

Mr. RIEGLE. Mr. President, I will, in a moment, send to the desk an amendment on behalf of Senator CAROL MOSELEY-BRAUN that has been cleared on both sides, the purpose of which is to establish a National Commission on Financial Services.

I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] for Ms. MOSELEY-BRAUN, proposes an amendment numbered 1662.

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

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1, between lines 1 and 2, insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 26, after line 18, add the following new title:

TITLE II—FINANCIAL SERVICES

SEC. 201. SHORT TITLE.

This title may be cited at the "National Commission on Financial Services Act".

SEC. 202. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 7 voting members and 3 nonvoting members appointed as follows:

(A) Three voting members and 1 nonvoting member to be appointed by the President.

(B) Two voting members and 1 nonvoting member to be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(C) Two voting members and 1 nonvoting member appointed jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, and shall include representatives of business, agriculture, and consumers.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointment of the members of the Commission shall be made not later than June 30, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this title referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 203. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including all laws, regulations, and policies that govern part or all of the financial services industry or that affect the ability of the financial services industry to effectively and efficiently meet the needs of—

(A) the United States economy;

(B) individual consumers and households;

(C) communities;

(D) agriculture;

(E) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial needs);

(F) governmental and nonprofit entities; and

(G) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the adequacy of the existing framework of Federal and State laws and regulations, and the extent to which Federal laws and regulations, in an efficient and cost-effective manner—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that the financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for all potential users of the system, regardless of where such users are located; and

(C) the extent to which the Federal regulatory structure impacts the achievement of the objectives in subparagraph (B).

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities Exchange Commission;

(H) the Commodities Futures Trading Commission;

(I) the Director of the Congressional Budget Office; and

(J) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations for changes in laws and regulations to improve the operation of the United States financial services system, including needed changes in the Federal legislative and regulatory policies and in the Federal regulatory structure that would enhance—

(1) the ability of the financial services system, or any part thereof, to respond to the needs of all potential users of the system;

(2) the systemic safety of the financial services system;

(3) the cost of financial services to users of the system;

(4) the competitiveness of the various providers of financial services;

(5) how funds are allocated to the financial services system; and

(6) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than March 31, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 204. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 205. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 additional professional staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal

Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 206. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 203(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

Ms. MOSELEY-BRAUN. Mr. President, our financial services system plays a critical role in the American economy. Families use it to purchase a car, to buy a home, to fund their children's education, and for myriad other everyday, but vitally important, purposes. Businesses use it to fund their operations, to finance expansion, to create jobs, and for an equally large variety of other reasons. In fact, our economy absolutely depends on the ability of our financial services system to meet the needs of consumers and households, communities, agriculture, business, governments of all types, and nonprofit entities.

It is equally clear that our financial services system, and our economy as a whole, are undergoing major changes. The revolution in communications, computerization and other technological changes, changes in the kinds of services demanded by various users of our system, the creation of new financial products and services and whole new financial sectors, and structural changes in our economy itself are all combining to reshape our financial system.

Our banking system has been shrinking as a percentage of the overall financial system. Mutual funds now have over $2 trillion in assets. And the derivatives area, perhaps most visibly embodied in the two Chicago Futures Exchanges, has resulted in changes in our financial system that weren't even imagined a few decades ago.

The Federal Government's involvement in our financial services system is almost as complex as the system itself. The Treasury Department, the Department of Housing and Urban Development, the Federal Reserve, the Securities and Exchange Commission, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and the Federal Trade Commission are just some of the Federal departments and agencies with major responsibilities and authorities that directly impact on our financial system.

Federal laws and regulations ensure the stability of our payments system, and protect the savings of ordinary Americans. Federal laws and regulations govern the conduct of monetary policy, and ensure that consumers have the information they need to shop for credit. Federal laws and regulations protect the integrity and fairness of our capital markets, and the privacy of consumer credit history information. Federal laws and regulations credited a huge secondary market in mortgages, and regulate important parts of each and every home buying transaction. Federal laws and regulations in the financial services area affect every single American—and the rest of the world.

Given the scope and extent of Federal involvement in our financial system, and given the scope and extent of the changes now underway in that system and our economy at large, I believe it is time for a comprehensive examination of our financial system. That is why I am offering this amendment establishing a national commission on financial services.

There have been a lot of studies of various financial issues in the past, including:

The Hunt Commission, established in 1970;

The Financial Institutions in the Nation's Economy—"FINE"—study, conducted in 1975;

President Carter's report on geographic restrictions, conducted in 1978; and, most recently,

The 1991 study, entitled "Modernizing the Financial System."

All of these studies examined parts of our financial system. However, the subtitle of the 1991 study, "Recommendations for a Safer, More Competitive Banking System," highlights the differences between what has gone before and the amendment I am proposing today.

The Commission approach embodied in my amendment will study the entire financial system, not just the banking system. And, since the banking system is shrinking as a percentage of our total financial system, I think it is appropriate that we look at the entire system in a comprehensive way.

Moreover, this amendment mandates study of our financial system from the viewpoint of our economy and from the viewpoints of users of the financial system, including consumers and households, communities, agricultural interests, and businesses of all sizes, instead of from the viewpoint of providers or from the viewpoint of Government. To ensure that objective is met, the voting members of this Commission will be drawn from the users of the system.

I am new to these issues at the Federal level. However, I have worked with them at the State level, and I strongly believe it could be very helpful to have the framework of a broad set of recommendations to help us deal with the huge changes underway in our economy and our financial system.

I do not think such a commission should prevent us from acting on those issues that are ready for action during this Congress. However, whether we attempt to act comprehensively in the future, or whether we go step-by-step, I think we will clearly benefit having some better understanding of:

The needs of the users of our financial system;

How well the system meets those needs; and

The impact Federal laws and regulations have on the system and its ability to meet the needs of consumers, communities, businesses, and the rest of the users of our financial system.

A comprehensive study of our financial system can give Congress and the President a framework that will help us ensure that Federal laws and regulations are adequate and up to date, that they do not unreasonably or inappropriately get in the way of or distort the fundamental changes now underway in our financial system and in our economy, and that they are able to achieve their public policy objectives.

At the same time, such a study can help us frame new responses, to extend and reform Federal laws and rules to cover new areas where necessary and appropriate, and to meet ongoing public needs in new, creative ways.

Mr. President, the Commission created by this amendment will report back to Congress by March 31, 1995. This time period is, I am convinced, one of the best investments in our future we can make.

If we care about big issues, like the future of our economy and our international competitiveness, and if we care about people and communities, and how the financial system works for them, then we should begin this study now. I strongly urge my colleagues to join me in working to see that this amendment proposing a National Commission on Financial Services Act is quickly enacted into law.

Mr. RIEGLE. As I say, this has been cleared on both sides, and I ask that it be agreed to.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am sure I have no objection. I was off the floor for a minute. Are these managers' amendments?

Mr. RIEGLE. This is an amendment on behalf of Senator CAROL MOSELEY-BRAUN to set up a National Commission on Financial Services.

Mr. METZENBAUM. I thank the Senator. I apologize for interrupting.

Mr. RIEGLE. I would rather have the Senator ask and be sure.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The PRESIDING OFFICER. The amendment (No. 1662) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NICKLES. In section 2 of this bill, the language provides a 25-percent deposit cap or concentration limit for banks in any one State. Oklahoma law currently sets an 11 percent deposit cap in the State banking code. Under the House version of this bill, it is clear that States have the right to set their own limits. My question is does the language in the Senate's version of the bill preempt Oklahoma's 11-percent concentration or deposit cap limitation?

Mr. RIEGLE. It does not. Oklahoma law and any other State law which sets a lower deposit concentration limit would be protected under this language. This section is intended only to set a ceiling above which a State may not go without a specific waiver by the State bank supervisor on a case-by-case basis.

Mr. President, I have two other items here. I hope we can resolve the issue with Senator METZENBAUM because we are ready to go to final passage here very shortly, I think, and would like to do so.

AMENDMENT NO. 1663

(Purpose: To remove certain limitations on the maximum interest rate that may be charged on certain FmHA loans)

Mr. RIEGLE. Mr. President, I offer an amendment on behalf of Senator PRYOR. It raises concerns and deals with concerns about the applicability of State usury laws to out-of-State branches.

During discussions of the interstate banking bill, Senator PRYOR raised concerns about the applicability of State usury laws to out-of-State branches. He wanted to ensure that branches of out-of-State banks coming into Arkansas were subject to that State's usury ceiling. My staff consulted with his staff and we addressed his concern in the committee report on S. 1963 in which we made clear State usury laws would apply to interstate branches coming into the host State. During those discussions, Senator PRYOR raised an additional concern of his State's usury law and its impact on Farmers Home Administration loan programs. That issue is addressed by this amendment.

This amendment would override Arkansas' usury law with respect to three different Farmers Home Administration [FHA], loan programs. These programs are the water and waste disposal direct and guaranteed loan programs, the community facilities direct and guaranteed loan programs, and the business and industry guaranteed loan program. Currently, these programs perform below par in Arkansas because that State's usury ceiling restricts their use, thereby inhibiting community and economic development. For the past 4 years, Federal money allocated by the Farmers Home Administration for direct loans and loan guarantees in Arkansas has been reallocated to other States because FHA was unable to expend it in Arkansas due to the usury ceiling. This amendment would override any State usury ceiling with respect to these programs, but would give States 3 years to opt out of this provision and reimpose their State usury limit if they so choose.

Mr. President, the amendment has been cleared on both sides. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. PRYOR, proposes an amendment numbered 1663.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . MAXIMUM INTEREST RATE ON CERTAIN FmHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

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

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

Mr. RIEGLE. Mr. President, this has been cleared on both sides. If there is no further debate on it, I urge the adoption of the amendment.

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

The amendment (No. 1663) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

Mr. METZENBAUM. 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. METZENBAUM. Mr. President, the Senator from Ohio had intentions of offering two amendments, one having to do with low-cost banking, and the other having to do with check cashing.

I think, after discussion, that the chairman of the committee and the ranking member may be able to handle this matter in another way, and therefore I will not offer that amendment.

There is another amendment that the Senator from Ohio is prepared to offer.

There is no question that it is a controversial amendment. But it has to do with the fact that the Supreme Court in one fell swoop the other day totally eliminated the obligation and liabilities of accountants, lawyers, and all those who are involved in connection with underwriting, and securities transactions, a horrendous decision by the Supreme Court—horrendous because had that decision been in effect previously, the $275 million recovered from the accountants and the lawyers and others in connection with the investment bankers in the Keating matter would not have occurred. Right now, under the law, it is precluded from recovering any additional dollars along that line.

It is my understanding that some Members of this body would strongly react to attempting to correct that matter, and this is the second bill to which the Senator from Ohio had intentions of offering it as an amendment. I hope that we can figure out some other way to do it. But I make no bones about it. Before this session is over, I will give every Member of this body the chance to correct this terrible inequity that has been created by the Supreme Court of the United States. It was not one of their great days. It certainly was unfair to the taxpayers of this country who have been stuck with the liabilities that otherwise accountants, attorneys, investment bankers, and others should be paying.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1664

(Purpose: Relating to the Mount Rushmore Commemorative Coin Act)

Mr. RIEGLE. Mr. President, I have an amendment that has been cleared on both sides in behalf of Senator DASCHLE and Senator PRESSLER, and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for Mr. DASCHLE, for himself and Mr. PRESSLER, proposes an amendment numbered 1664.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

Mr. RIEGLE. Mr. President, this amendment has been cleared on both sides. It relates to a slight change in an existing law regarding the Mount Rushmore Commemorative Coin Act. I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1664) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I wish to congratulate the chairman of the Banking Committee for the outstanding work he has done in crafting an interstate banking and branching bill which I believe is in the best economic interests of this country. I believe the committee bill will significantly improve the efficiency of financial institutions across this country to the long-term benefit of individuals and businesses. It will strengthen our economy.

On the one hand, we need to eliminate unnecessary Federal barriers and allow interstate banking and branching to proceed as market forces dictate. On the other hand, we need to do this in a manner which does not threaten the safety and soundness of our banking system, and which respects both States' rights and the legitimate franchise interests of community banking institutions. In my view, the committee bill accomplishes these objectives.

I became strongly interested in the issue of interstate banking and branching in 1991 at the urging of bankers in my State. At that time, they came to me with serious concerns that the pending Bush administration proposal went too far toward favoring the interests of large banks, and that other proposals had little chance of passage. Working together with our bankers and many other State banking organizations—as well as the distinguished chairman of the committee—we were able to develop a compromise proposal which I was privileged to offer as an amendment to the Senate floor and which passed the Senate.

The committee bill before us today is similar to that amendment in many ways, but contains some important improvements. I strongly support this measure.

There is, however, one aspect of this debate which concerns me and the bankers in my State a great deal. That is the issue of interstate branching by foreign banks. I believe the House bill, H.R. 3841, gives competitive advantages to foreign banks. This bill has already passed the full House of Representatives, and I presume the treatment of foreign banks will be an issue in the conference committee. I strongly favor the Senate approach.

Mr. President, foreign banks have expanded their presence in this country dramatically in recent years, to the point where they now enjoy a significant market share. They are not merely operating at the fringes of our banking system, as some would suggest.

In 1993, foreign banks operating in the United States controlled $872 billion in banking assets, $872 billion. Foreign banks controlled an additional $329 billion in off-shore assets. Ninety percent of these assets were booked in the Cayman Islands, and most of the remainder were booked in the Bahamas. The Federal Reserve has just begun calculating these off-shore assets, presenting a more accurate picture of the reach and influence of foreign banking operations in this country. Together, these totals show that foreign banks in 1993 held a staggering $1.5 trillion in U.S. loans and securities out of a total U.S. market of $3.9 trillion. This means foreign banks controlled 30.5 percent of U.S. bank assets in 1993.

Forty-two percent of all business loans in the United States last year were made by foreign bank-owned entities. Foreign banks held more than $200 billion in commercial and industrial loans for each of the last 3 years, compared to $85 billion 10 years ago. Foreign banks held an additional $70 billion in commercial real estate loans last year as well.

Mr. President, I have been surprised to learn how many individuals in this

town have been retained by foreign banking interests and are willing to defend foreign banking interests affected by this legislation.

I have also come to learn that many foreign banks compete directly for the same business U.S. banks dominated only a few years ago, and they have a pretty sweet deal. Do not get me wrong, I am not opposed to competition. I am not opposed to interstate banking and branching activities being conducted by foreign banks. However, in my view, I believe they should compete equally with our own banks. They should be subject to the same regulatory restrictions as our own banks if they are competing directly.

Instead, their cost of capital appears to be much lower than that of U.S. banks, which means that they can accept a much lower rate of return. Why? Most foreign banks do not have to worry about complying with community reinvestment laws, or consumer banking laws, or fair lending laws. Most do not have to worry about the Home Mortgage Disclosure Act, or the Real Estate Settlement Procedures Act, to name a few.

Foreign banks also continue to enjoy the ability to enter into other fields which are off limits to U.S. banks. Current Federal law exempts foreign banks in certain cases from restrictions on U.S. bank holding companies relating to interests in nonbanking organizations. I am told this has enabled foreign banks to engage in a wide range of business activities from raising poultry to manufacturing metal products.

Let me say again, I have no problem with competition. But fair competition means playing by the same rules. I think we must have balance in this bill, providing the same benefits and burdens for foreign banks as are available for U.S. banks.

Mr. President, I would like to ask the chairman of the Banking Committee, the distinguished Senator from Michigan, if he would answer a few questions regarding the concerns I have with foreign banks under an interstate banking and branching bill.

First, I would ask the distinguished chairman of the Banking Committee, has the committee heard testimony expressing concern over preferential treatment for foreign banks under any interstate banking legislation?

Mr. RIEGLE. Yes. At the committee hearings on this bill, testimony was given on this issue. We were told that foreign banks presently receive preferential treatment in our market inasmuch as their wholesale branches are not subject to the Community Reinvestment Act and other consumer laws. We were also told they can attract corporate customers since they do not pay deposit insurance premiums on corporate accounts taken in their wholesale branches.

Mr. FORD. Do foreign banks have the right to branch interstate under the House bill without meeting the same requirements we put on domestic banks?

Mr. RIEGLE. I understand the House bill permits foreign banks to branch interstate without the need for a subsidiary bank chartered in this country.

Mr. FORD. I would say to the chairman that my concern with the approach is that the Community Reinvestment Act and other consumer laws would not apply to the foreign bank branches under the House bill. Let me ask the chairman further, do foreign banks have the ability to branch interstate under the Senate bill?

Mr. RIEGLE. Yes. They have all of the same rights as U.S. banks. Under the Senate bill, foreign banks can acquire and combine banks on an interstate basis just like U.S. banks if they use the structure required of domestic U.S. banking organizations. This ensures they do not receive preferential treatment.

Mr. FORD. In areas where foreign banks compete directly with U.S. banks, would it be the chairman's view that the inapplicability of the Community Reinvestment Act or consumer banking laws or fair lending laws could give foreign banks a competitive advantage over U.S. banks?

Mr. RIEGLE. Yes. In fact, the committee recently received a letter from the Independent Bankers Association of America contending that because the wholesale branches of foreign banks are not subject to such requirements, they have a competitive advantage over U.S. banks and can thus "undercut the price charged by U.S. banks for comparable services." I ask unanimous consent to have printed in the RECORD that letter from the IBAA.

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

INDEPENDENT BANKERS ASSOCIATION OF AMERICA,
Washington, DC, December 21, 1993.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the IBAA has long favored the "Fair Trade In International Banking Act", and has testified in favor of the bill several times. We believe that "national treatment" is becoming an increasingly important concept as international banking expands, both in the United States and worldwide. However, the Fair Trade In International Banking Act only speaks to the treatment afforded to U.S. banks doing business in foreign countries. We have concerns that the playing field is not even here in the United States and that U.S. banks are currently at a serious competitive disadvantage.

Foreign banks can operate in the U.S. in many forms. These include agencies, Edge Act corporations, full service branches and "wholesale" branches. Only the FDIC insured full service branches are subject to the panoply of bank regulatory laws and regulations. Generally, federal and state branches of foreign banks must be FDIC insured if they receive deposits under $100,000.00, unless the appropriate federal regulator determines that the branch is not engaged in "domestic retail deposit activity". 12 U.S.C. Section 3104

Pursuant to this section, regulations have been promulgated which allow uninsured foreign branches to accept initial deposits of at least $100,000.00 even if the deposit falls to less than $100,000.00. 12 C.F.R. Section 364.4. In addition, an uninsured foreign branch can accept initial deposits of less than $100,000.00 if the deposit is from any business entity and certain other depositors. 12 C.F.R. Section 346.6

We believe that these provisions effectively allow branches of foreign banks to compete with U.S. banks on a retail deposit level. However, the branch does not have to pay FDIC deposit premiums and is not subject to a great many banking and consumer protection laws. This gives the branch of the foreign bank a distinct cost savings that allows it to undercut the prices charged by U.S. banks for comparable services. We believe that this disparity has helped foreign banks to control almost 36% of all commercial and industrial loans in the U.S., as well as to control 21% of all U.S. banking assets.

On October 5, 1993 Federal Reserve Governor LaWare testified before the Senate Banking Committee that he believed foreign banks should receive the same treatment with regard to interstate banking and branching as U.S. banks. This is an especially troubling idea given the apparent preferential treatment that these banks now have.

We believe it is appropriate for the Senate Banking Committee to investigate whether and to what extent foreign banks receive preferential treatment, both in the areas discussed above and other areas. For the banking industry to effectively compete, it must have a level playing field both here and abroad. The Fair Trade In International Banking Act will help insure that national is afforded U.S. banks abroad. We also need to insure that the same treatment is afforded here.

Sincerely,

KENNETH A. GUENTHER,
Executive Vice President.

Mr. FORD. Is the chairman aware of any other concerns being expressed by U.S. bankers about possible competitive advantages being given to foreign banks under any interstate banking proposals?

Mr. RIEGLE. Yes. I have received 16 letters from State banking organizations from across the country expressing concerns that the language in the House bill gives foreign banks competitive advantages. These State banking organizations have all expressed support for retaining the State approach on this issue. I ask unanimous consent that these letters be printed in the RECORD at this point.

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

ALABAMA BANKERS ASSOCIATION,
Montgomery, AL, April 20, 1994.

Senator DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE. I am writing in reference to the foreign branching language

in the House interstate banking bill (H.R. 3841). I am very concerned about this portion of the bill as this letter will explain.

The Senate version of the interstate banking legislation (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House version, however, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States.

According to recent Federal Reserve Board data, there are over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 are agencies. Foreign banks make 75% of their United States loans from wholesale branches and agencies. These branches and agencies are not subject to FDIC insurance premiums, CRA, HMDA requirements, and other consumer bank requirements. Therefore, this provision would only widen the unfair advantage they have over domestically chartered banks.

The recently completed GATT agreement states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

Foreign banks now account for a 42% share of all business loans made in the United States. The foreign share of the United States banking market is larger than the foreign banking share of most other major financial markets in the world. The reason for this is the distinct competitive advantage these foreign banks have over domestic banks in our own market.

Allowing foreign banks new competitive advantages in the United States market, as proposed in the House interstate banking bill (H.R. 3841), would be detrimental to the domestic banking industry. The Senate interstate banking bill passed by your Committee allows foreign banks chartered in the United States to take advantage of the interstate language. Those not chartered in the United States could keep their present offices, but would continue to be required to obtain state approval to operate a branch or representative in the different states.

Foreign banks operating domestically should not receive preferential treatment over domestic banks by our own government. I respectfully ask that you make every effort to keep the Senate interstate banking bill free from language that establishes preferential treatment for unincorporated foreign banks in the United States. United States banking regulations should apply to all financial institutions doing business in the United States, whether domestic or foreign.

Thank you for your consideration of this matter.

Sincerely,

JERRY W. SPENCER,
Executive Vice President.

THE ARKANSAS BANKERS ASSOCIATION,
Little Rock, AR, April 21, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and the branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC Insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. Is it because foreign banks have competitive advantages over U.S. banks in our own market. The answer is just as emphatically YES.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 236.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities from profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

H.C. CARVILL,
Executive Director.

COLORADO NATIONAL BANK,
Denver, CO, April 22, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: I urge you to support the interstate banking and branching bill (S. 1963) which is scheduled for consideration on Monday and Tuesday (April 25 and 26) by the full United States Senate.

Passage of interstate banking and branching is the number one legislative priority for First Bank System. I urge you to keep the interstate bill "clean" and vote against any amendments which address non-related issues, such as insurance, basic banking services or CRA. Any such unrelated amendments will undermine the passage of the bill, which in its present form will increase the competitiveness and safety of the banking industry and benefit our customers.

Again, I urge you to support passage of a "clean" interstate banking and branching bill when it comes up for a vote on the Senate floor.

Sincerely,

DANIEL W. YOHANNES
President.

INDIANA BANKERS ASSOCIATION,
Indianapolis, IN., April 19, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: My purpose in writing to you is in regard to the House interstate banking bill (H.R. 3841), particularly the foreign branching language it contains.

The House interstate banking bill would allow foreign banks to locate their direct wholesale branches and agencies throughout the U.S. This would add to the unfair advantage they have over U.S. chartered banks, since the wholesale branches and agencies of foreign banks, from which they make more than 75 percent of their U.S. loans, are not subject to FDIC insurance premiums, the Community Reinvestment Act, or other consumer bank requirements.

Foreign banks have a great presence in the U.S. marketplace. Federal Reserve data point out that there are more than 300 foreign banking entities from 62 countries operating banking facilities here. Only 93 are subsidiaries, 378 are branches, and 211 are agencies. Foreign banks account for a 42 percent share of all business loans being made in the U.S. You may know that the branches and agencies of the foreign players are exempt from FDIC insurance, HMDA requirements, and CRA provisions, among others. These foreign competitiors clearly have competitive advantages over U.S. banks in our own market.

I respectfully ask that you not give foreign banks preferential treatment over our own banks in our market as proposed in the H.R. 3841. Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S. whether national or state, will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative office in the different states.

An example of current preferential treatment foreign banks have is exhibited in Subsection 346.6 of the FDIC rules and regulations which allow unincorporated, uninsured foreign branch and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

The foreign branching language in H.R. 3841 would give foreign banks competitive advantages over U.S. banks. There is no obligation to give foreign institutions more favorable treatment. Thank you for your consideration of my views.

Sincerely,

WILLIAM H. KING,
President.

IOWA BANKERS ASSOCIATION,
Des Moines, IA, April 19, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75 percent of their U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. Is it because foreign banks have competitive advantages over U.S. banks in our own market? The answer is just as emphatically YES.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

NEIL MILNER,
CAE, Executive Vice President and CEO.

KANSAS BANKERS ASSOCIATION,
Topeka, KS, April 18, 1994.

Re interstate banking and branching legislation.

Hon. DONALD W. RIEGLE, Jr.,
Chair, Senate Committee on Banking Housing, and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN RIEGLE. The purpose of this letter is to encourage that the language on foreign bank competition in S. 1963 prevail in Conference Committee over the language contained in H.R. 3841.

We commend the Senate in crafting legislation which does not grant foreign financial institutions treatment more favorable than domestic institutions. Foreign banks are big players in the players in the U.S. market, and there is nothing inherently wrong with this, so long as the playing field is maintained on the level.

We understand the Senate version would allow foreign banks which are not chartered in the U.S. to keep their present offices, but they would continue to need state approval to operate a branch or other operation within a state. Those that are chartered in the U.S., will be treated as any other domestic bank. This seems infinitely fair.

Thank you for your consideration and your efforts to prevent preferential treatment to foreign banks that choose not to become incorporated in the U.S. and hence, operate free from financial and other impediments of their competitors.

Cordially,

HAROLD A. STONES,
Executive Vice President.

KENTUCKY BANKERS ASSOCIATION,
Louisville, KY, April 19, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, for which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. Is it because foreign banks have competitive advantages over U.S. banks in our own market. The answer is just as emphatically YES.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S. whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

BALLARD W. CASSADY, Jr.,
Executive Vice President.

MICHIGAN BANKERS ASSOCIATION,
Lansing, MI, April 22, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR DON: This letter confirms our concerns expressed last week when we met with you regarding the foreign branching language in the House interstate banking bill (H.R. 3841), which differs significantly from your S. 1963.

The interstate banking bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums nor CRA or other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

The 378 branches and 211 agencies of foreign banking organizations from which they do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42% share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. This isn't happening because U.S. banks are inept competitors; it is because foreign banks have competitive advantages over U.S. banks in our own market.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

We believe that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks.

We respectfully ask that you make every effort to keep the Senate interstate banking bill both on the Senate floor and in conference free from established preferential treatment to unincorporated foreign banks in the U.S. Our banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in United States.

Sincerely,

DONALD A. BOOTH,
Executive Vice President.

MISSISSIPPI BANKERS ASSOCIATION,
Jackson, MS, April 19, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: On behalf of our Association's membership, the commercial banks of Mississippi, I am writing in regard to the foreign branching provisions included in H.R. 3841, the House interstate banking legislation.

The Senate interstate banking bill, S. 1963, provides that foreign banks may branch interstate only by first establishing an insured bank in this country and then branching from that bank. This is the same rule that applies to domestic banks. However, H.R. 3841 would allow foreign banks to place direct branches and agencies throughout the United States. Such branches and agencies of foreign banks are not subject to FDIC insurance premiums or many of the other banking regulations which apply to domestically chartered banks. Such a change as proposed by H.R. 3841 would give a grossly unfair competitive advantage to these foreign branches and agencies.

The vast majority of foreign banking facilities in the United States are either branches or agencies. According to numbers from the Federal Reserve Board, of 682 foreign banking facilities in the United States, 589 of these are branches and agencies. While foreign banks do most of their business in this country through branches and agencies, these facilities are exempt from FDIC insurance, CRA provisions and many other regulations to which domestic banks are subject. We object to the unfair advantage given to such foreign banking facilities.

It is our position that foreign banks with operations within the United States should not receive any preferred treatment under the interstate banking law. There is no need to give these foreign banks any new competitive advantages as would be provided by H.R. 3841. The Senate interstate banking bill (S. 1963) gives foreign banks chartered in the U.S. the ability to utilize the interstate banking law. Foreign banks without a U.S. charter could still keep their present offices and continue to apply for state approval to operate branches in different states.

We would urge you to work to maintain the Senate position on these foreign bank branching provisions in the interstate bill. We believe that foreign banks which do not have a charter in the United States should not be given preferential treatment and that our banking regulations, both state and federal, should be allowed to apply equally to domestic and foreign banks.

Sincerely,

MCKINLEY W. DEAVER,
Executive Director.

OHIO BANKERS ASSOCIATION,
Columbus, OH, April 18, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Ohio bankers, as we believe is generally the case around the country, support S. 1963. Action by states have long since made interstate banking a reality. Standardized federal rules will help rationalize and simplify the business of banking. We write this letter not just to support passage by the Senate of S. 1963 but to express a strong preference for the treatment of branches of foreign banks in your bill as opposed to that in House's counterpart (H.R. 3841).

We believe that foreign banks should be treated as competitive equals in this country. Your bill, as we understand it, provides that once a foreign bank establishes an insured bank in this country it could branch interstate. The House version requires no U.S. insured bank. Thus, it would allow foreign banks to compete directly with U.S. banks without being subject to a number of costly regulatory requirements faced by U.S. banks including deposit insurance premiums and community reinvestment.

Today U.S. banks already operate at a disadvantage compared with foreign bank operations in the United States. The results are dramatic. Foreign banks have captured 42 percent of all business loans being made in the United States. One example of a significant, current competitive inequity comes through F.D.I.C. rules which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit. Given the current significant premium levied by the F.D.I.C. many businesses are finding the resulting rate differential to be compelling. H.R. 3841 would increase that sort of inequity for U.S. banks.

We would ask you to oppose any efforts to incorporate preferential treatment for foreign banks in this legislation. Ohio banks do not fear competition as long as the same rules apply to all.

Sincerely,

MICHAEL VAN BUSKIRK,
Executive Vice President.

OKLAHOMA BANKERS ASSOCIATION,
Oklahoma City, OK, April 18, 1994.

DONALD W. REIGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S., Senate Washington, DC.

Re interstate branching by foreign banks.

DEAR CHAIRMAN RIEGLE: The interstate banking bill currently before the Senate (S. 1963) is much different than its counterpart in the House (H.R. 3841) regarding the ability of foreign banks to establish branches on an interstate basis. H.R. 3841 would allow foreign banks to put their direct wholesale branches and agencies throughout the United States without maintaining an actual charter. S. 1963 would require that the foreign banks first establish an insured bank in this country and then it would be treated the same as a domestic bank in terms of its ability to branch on an interstate basis. The wholesale branches and agencies of foreign banks, from which they make over 75% of the U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements. H.R. 3841 would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment, which is precisely what H.R. 3841 does.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their busi-

ness in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. This has resulted in large measure because foreign banks have distinct competitive advantages over U.S. banks in our own market.

There is no need to give foreign banks new competitive advantages in our market as proposed by H.R. 3841. Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present office but would continue to need state approval to operate a branch or representative in the different states.

Oklahoma bankers believe that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

ROGER M. BEVERAGE,
President.

SOUTH DAKOTA BANKERS ASSOCIATION,
Pierre, SD, April 21, 1994.

Mr. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writting to communicate the growing concern of South Dakota bankers with the provisions for foreign bank branching found in the House interstate banking bill (H.R. 3841).

It is my understanding that you have received a letter from Ballard Cassady, Jr., executive vice president of the Kentucky Bankers Association which describes in some detail the differences between the interstate banking bill passed by the House, and the bill currently before the Senate (S. 1963). Mr. Cassady's letter illustrates the significant competitive advantages given to foreign banks in the House bill. We believe that the Senate interstate banking bill is much more balanced in its treatment of foreign and domestically-chartered banks. We do not believe that foreign banks operating domestically should receive preferential treatment over banks domiciled in the United States.

We hope you will makes every effort to keep the Senate interstate banking bill free of established preferential treatment to unincorporated foreign banks in the U.S. We also hope you can be successful in maintaining this position in the conference report.

Thank you for your attention to our concerns.

Sincerely,

JEFFREY J. RODMAN,
Executive Vice President.

TENNESSEE BANKERS ASSOCIATION,
Nashville, TN, April 18, 1994.

Mr. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: The purpose of this letter is to call your attention to the foreign branching language in the House interstate banking bill (H.R. 3841). Unlike the Senate interstate bill (S. 1963) which provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such a bank, the House interstate bill would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks are not subject to FDIC insurance premiums, nor CRA, this would add to the already unfair advantage they have over U.S. domestically chartered banks.

According to the recently completed GATT agreement, the host country should provide foreign financial institutions treatment no less favorable than it accords its own like service providers. There is no obligation to give foreign institutions more favorable treatment.

Foreign banks are not small players in the U.S. market. They account for a 42% share of all business loans made in the United States. This fact is not because U.S. banks are not interested in quality loans, but more due to the fact that foreign banks have competitive advantage over U.S. banks in our own market.

I would request that every effort be made to keep the Senate interestate banking bill free from established preferential treatment to unincorporated foreign banks in the United States. U.S. banking regulations are in place for a reason, and the regulations should apply to all financial institutions, domestic or foreign, who choose to do business in the United States.

Sincerely,

BRADLEY L. BARRETT,
Executive Vice President.

VIRGINIA BANKERS ASSOCIATION,
Richmond, VA, April 18, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing to you to express concern with any provisions that might be advocated for inclusion in the Senate's interstate banking bill that would conflict with our state law that prohibits foreign bank entry into Virginia.

During the 1994 session of the Virginia General Assembly, a bill was adopted, with the support of the Virginia Bankers Association, to move Virginia from regional to national interstate banking. Retained in the statute that was passed was a provision prohibiting foreign banks from coming into the Commonwealth.

It is my understanding that the House passed bill, H.R. 3841, would likely nullify our foreign bank prohibition. It is further my understanding that the Senate interstate bill, S. 1963, would more nearly protect our existing Virginia law by requiring a foreign bank, like a domestic bank to first establish an insured bank in this country before being able to branch. While the Senate language is much preferable to the House language, the Senate provision could be further improved by also providing that state laws that are more restrictive than federal laws will prevail.

I would respectfully request that you make very effort to retain the Senate version of how foreign banks that operate in this country will be governed and, if possible, further strengthen that provision with language that protects more restrictive state laws. There is simply no reason to give our markets to foreign banks, or give them preferential treatment over our own domestic banks.

Thank you for your consideration.

Sincerely,

WALTER C. AYERS,
Executive Vice President.

WEST VIRGINIA BANKERS ASSOCIATION, INC.,
Charleston, WV, April 18, 1994.

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I am writing this letter to bring your attention to the foreign branching language in the House interstate banking bill (H.R. 3841).

The interstate banking bill currently before the Senate (S. 1953) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House interstate banking bill, in contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums nor CRA and other consumer bank requirements, this would add to the already grossly unfair advantage they have over U.S. domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the U.S. market. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world. Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically *NO*. Is it because foreign banks have competitive advantages over U.S. banks in our own market? The answer is just as emphatically *YES*.

There is no need to give foreign banks new competitive advantages in our market as proposed in the House interstate banking bill (H.R. 3841). Under the Senate interstate banking bill passed by your Committee, foreign banks which are chartered in the U.S., whether national or state will be able to take advantage of the interstate language. Those which are not chartered in the U.S. could keep their present offices but would continue to need state approval to operate a branch or representative in the different states.

It is our feeling that foreign banks operating domestically should not receive preferential treatment from our government over U.S. domestic banks. An example of the preferential treatment foreign banks are currently receiving is exhibited in Subsection 346.6 of the FDIC Rules and Regulations which allow unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I would respectfully ask that you make every effort to keep the Senate interstate banking bill free from established preferential treatment to unincorporated foreign banks in the U.S. Our U.S. banking regulations are there for a reason and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

THOMAS A. WINNER,
President and CEO.

WISCONSIN BANKERS ASSOCIATION,
Madison, WI, April 21, 1994.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN RIEGLE: I would like to bring to your attention the foreign branching language in the House-passed interstate banking bill (H.R. 3841).

The companion bill currently before the Senate (S. 1963) provides that foreign banks could, like domestic banks, branch interstate by first establishing an insured bank in this country and then branching from such bank. The House bill, by contrast, would allow foreign banks to put their direct wholesale branches and agencies throughout the United States. Since the wholesale branches and agencies of foreign banks, from which they make over 75% of their U.S. loans, are not subject to FDIC insurance premiums, CRA or other consumer bank requirements, this would add to the already grossly unfair advantage they have over domestically chartered banks.

National treatment for financial institutions, as defined in the recently completed GATT agreement, states that a host country should provide foreign financial institutions "treatment no less favorable than it accords its own like service providers." There is no obligation to give foreign institutions more favorable treatment.

According to recent Federal Reserve Board data, there are presently over 300 foreign banking organizations from 62 different countries operating banking facilities in the United States. Of the almost 700 different types of facilities, only 93 are subsidiaries, while 378 are branches and 211 are agencies. These latter two types of facilities from which foreign banks do most of their business in this country are exempt from FDIC insurance, HMDA requirements, CRA provisions, etc.—thus giving such foreign bank offices a distinct advantage in loan pricing.

Foreign banks are not small players in the United States. They now account for a 42 percent share of all business loans being made in the United States. This foreign share of our banking market is larger than the foreign banking share of most other major financial markets in the world.

Is this happening because U.S. banks are inept competitors? The answer is clearly and emphatically NO. It is because foreign banks have competitive advantages over U.S. banks in our own market.

There is no need to give foreign banks new competitive advantages in our market as proposed in H.R. 3841. Under the Senate's interstate banking bill passed by your Committee, foreign banks which are chartered in the United States, whether national or state, will be able to take advantage of the interstate language. Those which are not chartered here could keep their present office but would continue needing state approval to operate a branch or representative office in different states.

It is our belief that foreign banks operating domestically should not receive preferential treatment from our government over domestic banks. An example of the preferential treatment foreign banks currently receive is exhibited in Subsection 346.6 of the FDIC Rules and Regulations. This allows unincorporated, uninsured foreign branches and agencies to accept deposits of any amount from any business entity which engages in commercial activities for profit.

I respectfully ask that you make every effort to keep the Senate interstate banking bill free from establishing preferential treatment to unincorporated foreign banks in the United States. Our banking regulations are there for a reason, and they should apply to all financial institutions, domestic or foreign, doing business in the United States.

Sincerely,

HARRY J. ARGUE,
Executive Director.

Mr. FORD. I thank the chairman. Mr. President, I find the House language on foreign banks to be very troubling. My bankers are certainly strongly opposed to it, and I believe most of my colleagues will find the same reaction from their own bankers. As the chairman has stated, nothing in the Senate bill prohibits a foreign bank from establishing a subsidiary as a U.S.-chartered bank, which then has available all of the same rights and privileges of interstate banking and branching this legislation provides to U.S. banks. But to obtain these privileges, they must pay the same price as U.S. banks—compliance with all relevant laws which apply to chartered institutions. This includes community reinvestment laws, consumer banking laws, and fair lending laws.

Under the House bill, however, the special section on foreign branching assures an uneven playing field. Under section 104 of the House bill, foreign banks can establish a Federal branch in another State to the extent it would be permitted if that foreign bank were a national bank. Foreign banks can establish a State branch in another State to the extent it would be permitted if the foreign bank were a State bank.

If we are going to treat foreign banks as if they are national or State banks for purposes of interstate branching, we had better treat them as if they were national or State banks for purposes of community reinvestment laws, consumer banking laws, and fair lending laws. The House bill does the former, giving foreign banks all the same benefits. But the House bill fails to do the latter, by imposing none of the burdens which apply to U.S. banks.

This provides a substantial competitive advantage for foreign banks under the House language. It is a serious concern for my bankers, and it is a problem for me.

I thank the chairman for answering my questions. I support interstate banking and branching reform as strongly as any Member of this body, and I strongly support this Senate bill. However, I would urge the chairman to seek to retain the Senate approach on foreign banks in a conference committee, or to significantly modify the House approach to include fair treatment of U.S. and foreign banks with respect to both the burdens and benefits of interstate banking and branching. I regret to say to the chairman that if the conference report contains the House language giving a competitive advantage to foreign banks, I will feel compelled to actively oppose the passage of the conference report.

I know the chairman understands my concerns, and he has a great ability to articulate concerns on such complex topics as this one. I considered offering a sense of the Senate amendment expressing the policy that this legislation not provide any competitive advantage to foreign banks. I believe such an amendment would have passed unanimously. However, I know of the chairman's interest in moving this legislation, and I am hopeful this statement and colloquy will prove sufficient to make the same point. I would hope the chairman would take these concerns with him into a conference committee, and I would be happy to provide any assistance which he sees fit to assure that this issue is satisfactorily resolved.

Mr. RIEGLE. I thank the Senator from Kentucky for his help and for his statement.

I know the Senator from New York has a sense-of-the-Senate amendment he is prepared to offer and which I am prepared to accept.

I yield for that purpose.

AMENDMENT NO. 1665

(Purpose: To express the sense of the Senate that the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control regime to stem the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. RIEGLE, and Mr. SASSER, proposes an amendment numbered 1665.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 26, after line 18, add the following new section:

SEC. 8. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

Mr. D'AMATO. Mr. President, first of all, I thank the chairman, Senator RIEGLE, who is a cosponsor, and Senator SASSER, who is a cosponsor, as well as 18 other colleagues.

This is a resolution which expresses how extremely important it is that the President work with our allies in order to achieve a clearly defined and enforceable agreement which establishes a multilateral export control system for the antiproliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States and, indeed, world peace.

Mr. President, the United States faces three choices in the implementation of an export control policy. First, the United States can use its diplomatic leverage as a world leader to foster an effective and enforceable multilateral export control organization to stem the proliferation of products and technologies that contribute to the development and production of weapons of mass destruction. Then, the United States can continue to use the Export Administration Act [EAA] as the legal authority for implementing both multilateral and unilateral export controls.

Second, the United States can move forward without multilateral coordination and use the Export Administration Act as a tool to act only unilaterally to stem the flow of militarily strategic technology from terrorist and other countries. Or, third, the United States can eliminate all export controls except the most egregiously dangerous.

Mr. President, there is only one clear choice among these options. The President must work with our allies to create an effective and enforceable multilateral export control organization. There is no question that without effective multilateral coordination, any implementation of the Export Administration Act will result in selective unilateral controls by the United States. While the nature of the threat has changed, from a anti-Communist to an antiproliferation focus, the fact is that multilaterally agreed upon export controls remain essential to our international security.

They also remain an essential component of our exporters' ability to compete on a level playing field in the international marketplace. According to a representative of the National Association of Manufacturers [NAM],

The most important premise of the NAM proposal is that export controls on commercial goods and technology, including nonproliferation controls must be applied multilaterally. Absent multilateral agreement, export controls are ineffective and hurt only U.S. exporters.

This position undoubtedly applies to any proposal to reform the export control system under the EAA.

The old multilateral export control system, CoCom, ceased to exist on March 31, 1994. CoCom's role was to keep leading-edge military technology away from Communist countries, mostly the Soviet Union and China. With no new multilateral regime in place to deal effectively with proliferation threats, the world became a free market for exports that contribute to the development and production of weapons of mass destruction by terrorist and other countries.

The Clinton administration has so far been unable to foster cooperation among our allies to bring about agreement on a new regime. Today, exports are flowing world-wide based on the premise of national discretion. That is, each individual country will determine whether or not they will export a product. Products that contribute to weapons of mass destruction such as missile technology, nuclear and chemical and biological weapons are free to flow, to anyone, anywhere. We would hope that our allies will be prudent in their decisionmaking process but there is no way to know, until, possibly it is too late.

The Clinton administration must develop consensus for a new regime, that is stronger than the current regimes, which operate on the basis of national discretion. The new regime is not to be viewed as merely a gap filler for the current nonproliferation regimes because they themselves do not have any real enforcement mechanisms. It must utilize some of the characteristics that made CoCom work such as veto power and prenotification of exports with viable enforcement mechanisms.

The new regime must be designed with the goal of preventing any country, rich or poor, from building weapons of mass destruction. It must be especially sensitive to nations like Iran, Iraq, North Korea, Libya, Syria, and Cuba that support terrorism or other behavior that is inconsistent with international peace and security.

The United States must convince our allies to work with us to slow the spread of dangerous weapons. We need to show our allies the importance of discretion in this still unstable world. Carelessness on the part of our allies will make it easier for the nuclear states to buy or build weapons of mass destruction.

In order to achieve that goal, the Clinton administration must act with diplomacy and assertiveness in making this happen. They need to stop acting like a second-rate power and assume the role that has been achieved over many decades, that of a world leader. If they fail to accomplish this goal then we will once again prove to be a world leader with no leadership and have to deal with export controls that really have no control.

Mr. President, this resolution expresses how extremely important it is that the President work with our allies in order to achieve a clearly defined and enforceable agreement which establishes a multilateral export control system for the anti-proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States.

I ask my colleagues to support this measure and to let the administration

know how extremely important this is to U.S. national security and to world security.

Mr. RIEGLE. Mr. President, I urge adoption of the sense-of-the-Senate amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1665) was agreed to.

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

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

The motion to lay on the table was agreed to.

COMMUNITY REINVESTMENT ACT IMPLICATIONS

Mr. WELLSTONE. Mr. President, I would like to engage Senator RIEGLE in a short colloquy. I believe that there may be some confusion regarding the Community Reinvestment Act [CRA] implications of this legislation. For institutions that operate in more than one State, will S. 1963 require a separate CRA rating for each State in which the institution operates?

Mr. RIEGLE. Yes, it will. In this fashion, S. 1963 seeks to ensure that financial institutions taking advantage of interstate banking continue to meet the needs of all communities that they serve.

For multistate institutions, the bill requires a written evaluation for the entire institution and a separate written evaluation for each State in which the institution maintains one or more domestic branches. Under the Community Reinvestment Act, such evaluations each include the following: First the banking agency's conclusions for each assessment factor identified in the regulations; second the facts and data supporting such conclusions; and third the institution's rating and a statement describing the basis for the rating.

Furthermore, these State level evaluations must also present both the agency's conclusion for each assessment factor and the facts and data supporting such conclusions separately for each metropolitan area in which the institution maintains one or more branches, as well as the remainder of the State if the institution maintains branches in nonmetropolitan areas. The institution will not, however, receive a separate CRA rating for each of the metropolitan and nonmetropolitan areas covered in the State level evaluation.

STATE APPLICABILITY

Mr. GRAHAM. I would like to bring to the attention of the Chairman the concern of a number of my colleagues with the section of the bill dealing with applicable State law. My concern is that the section will result in a significant loss of authority for the States. Currently through their banking laws and their bank holding company statutes, States are able to require all banks to conform with a wide variety of State laws. States have applied laws in the areas of consumer protection, community reinvestment, and fair lending as well as a number of reporting and notification requirements to these institutions.

We need to look at the financial system from the eyes of the users of the services, the consumers. We need to have uniformity and predictability. At the same time we need to have standards that best achieve the needs of the community. We must recognize the diversity of the community needs across the Nation and provide laws that allow communities to reflect those different needs.

I am concerned as are a number of my colleagues that the current language of the bill does not give communities this needed flexibility.

I am also concerned the section of the bill dealing with applicable law may result in many consumers not receiving the full protection of State law in the areas of consumer protection and fair lending practices. The language also reduces the authority of States to guarantee adequate community reinvestment.

Mr. RIEGLE. Let me state for the record that some Senators have expressed concern about the implications of the applicable State law that would govern the operations of branches of out-of-state national banks in their States once this bill is enacted, as you have just mentioned. Under the reported bill, the States do not lose any authority that they already have over national banks. The bill also avoids having two classes of national banks resulting, interstate and intrastate, with each type of bank subject to different laws.

I would just add that we worked hard in the committee to preserve the contours of the dual banking system in crafting this legislation and have not tried to alter the existing balance of power between the Federal and the State levels. The reported bill endeavors to maintain the status quo regarding a State's ability to regulate the activities of national banks operating in that State. However, I remain open to hearing from Senators regarding their suggestions to further fine tune the language that has been drafted in committee on this point. I would of course endeavor to consider their concerns in conference.

Mr. GRAHAM. I appreciate the willingness of the chairman to revisit this issue with an open mind. I would encourage the administration, the OCC, the National Governors' Association, and the Conference of State Bank Supervisors to discuss this issue before the conference committee meets and see if they can make progress toward bridging their differences.

Mr. RIEGLE. I think that having such discussions would be an excellent idea. I would join the Senator in encouraging them to do so.

The PRESIDING OFFICER. Are there further amendments?

Mr. RIEGLE. Mr. President, I ask the Chair to suspend for a moment. There may be one other item.

Mr. President, we forgot one other refinement that needs to be added to the bill. This is an amendment to be offered by myself and Senator D'AMATO having to do with State laws that would have an affect on the date of enactment.

AMENDMENT NO. 1666

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself and Mr. D'AMATO, proposes an amendment numbered 1666.

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

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

The amendment is as follows:

On page 4, line 17, add the following after the period: "a State law in effect on the date of enactment of the Interstate Banking and Branching Act of 1994 that permits bank holding companies from only a limited number of States to acquire banks in existence for a specified length of time, in that State, shall be interpreted, under State and Federal law, as permitting bank holding companies from any State, to acquire a bank in that State, under the terms and conditions of such State law."

Mr. RIEGLE. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1666) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I rise today to express my concern about the fact that the bill we are considering today does not include any provisions to allow for interstate expansion by foreign banks.

International banks play a very important role in our economy today. The presence of international banks in our economy has helped not only to supply the credit needs of our Nation but has played an important role in assisting U.S. firms in exporting their goods and services and developing their expertise in successfully competing in the global market. In my home State of Florida, these foreign banks have worked in tandem with local businesses, and in many cases, small business to help them put together successful endeavors. Many U.S. companies have,

through the knowledge and expertise of these institutions, been able to find new markets in which to export their U.S. produced products. This bill recognizes the important efficiencies of allowing banks to operate across the United States. I believe we should therefore allow foreign banks to expand.

We have recognized in this bill the desirability of allowing U.S. banks to expand their operations throughout the United States. I am extremely concerned that the current bill is discriminatory because U.S. banks are allowed to expand, but foreign banks operating in the United States are not allowed to expand. National treatment requires that international banks be allowed to expand interstate through direct branches.

The United States has had a long history of providing national treatment to foreign institutions operating in the United States. In fact, when the International Banking Act of 1978 was adopted, the policy of national treatment was embodied in statute.

The U.S. Treasury Department, along with the Federal Reserve has advocated a policy of national treatment. This policy has been the basis of U.S. negotiations on financial services and the concept of national treatment has been employed in many of the Friendship, Commerce and Navigation treaties as well as in a number of agreements relating to financial services that are currently in force with the OECD.

Under Secretary of the Treasury, Frank N. Newman wrote to Senator RIEGLE about this issue on February 22, 1994. Under Secretary Newman points out that the current bill would not permit foreign banks to branch across State lines except through a subsidiary U.S. bank. He points out that:

[t]he United States has repeatedly objected to similar requirements imposed by foreign countries on U.S. banks that operate abroad. Such requirements disproportionately burden U.S. Banks and thereby deny them equality of competitive opportunity in foreign financial markets. As we work to end discrimination against U.S. financial institutions abroad, and to enact the Fair Trade in Financial Services Act, we will strengthen our hand by providing national treatment to foreign banks operating in the United States.

In addition, the Commission of the European Communities has expressed its concern that the bill does not provide for national treatment in that interstate banking provisions are not extended to foreign banks. They go on to state that they believe that this should be achieved without imposition of a branch roll-up requirement. The letter makes clear that the Second Banking Directive:

Has been cited incorrectly to justify a subsidiary requirement as a condition for permitting foreign banks to conduct interstate banking in the U.S. * * * Neither the Second Banking Directive nor national legislation of Member States prevent foreign banks from maintaining existing branches or from establishing new ones as a condition for operating in the European Union. Direct branching from outside the European Union by non EU-banks is permitted in Member States of the Union.

Furthermore, the House of Representatives, in passing H.R. 3814, the Interstate Banking Efficiency Act of 1994, recognized the importance of granting interstate expansion to foreign banks.

I hope that when the Conference is convened, the Senate will review the House provisions and adopt them.

Mr. D'AMATO. I would like to ask the chairman of the Banking Committee a question concerning a provision that I believe is in the House-passed version of this legislation. As I understand it, the House bill authorizes depository institutions that are affiliated to act as agents for each other, and that such agents are not considered to be branches under Federal or State law. Was there any consideration to putting a similar provision in the Senate bill?

Mr. RIEGLE. I am glad the Senator raised that point. In fact, Senator SHELBY had discussed with me an amendment that would have authorized banks to conduct certain banking activities through an agent. Under Senator SHELBY's amendment, such an agent would not be considered to be a branch. However, after discussing his proposal with the Comptroller of the Currency, I believe that national banks already possess significant authority to act through agents.

Mr. D'AMATO. I see, so the fact that the amendment was not added to the bill simply reflects that national banks already possess similar authority under current law. Did the Comptroller provide the chairman with any examples?

Mr. RIEGLE. Yes, the Comptroller provided me with a representative list of examples of situations in which national banks have used third parties to provide banking services to their customers. I would ask for unanimous consent to include this list in the RECORD at this point. I would also point out that it is my understanding that under current law any depository institution subsidiary of a depository institution holding company may receive deposits, renew time deposits, close loans, disburse proceeds of loans, and receive payments on loans and other obligations as agent for a depository institution affiliate and the Comptroller's office has recently so opined.

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

USE OF THIRD PARTIES BY NATIONAL BANKS TO FACILITATE TRADITIONAL DEPOSIT AND LENDING ACTIVITIES

The following lists situations in which affiliated and nonaffiliated parties assist banks in engaging in traditional banking activities without being considered to be bank branches.

A. Use of telephones and the post office to facilitate deposit transactions does not render such facilities to be branches of national banks. *Independent Bankers Association of America v. Smith*, 534 F.2d 921 (D.C. Cir.), *cert. denied*, 429 U.S. 862 (1976) (excerpt).

B. ATMs owned by a third party (*e.g.*, a supermarket) do not constitute national bank branches even though bank customers may access their accounts through such facilities. *Independent Bankers Association of New York State v. Marine Midland Bank, N.A.*, 757 F.2d 453 (2d Cir. 1985), *cert. denied*, 476 U.S. 1186 (1986).

C. Loan origination activities by national bank through third parties do not constitute branching. 12 C.F.R. §7.7380(a).

D. Disbursal of loan proceeds by national banks through third parties (*e.g.*, at a real estate closing) does not constitute branching. OCC Interpretive Letter of June 23, 1993; OCC Interpretive Letter of April 24, 1992 (general discussion of issue).

E. Use of third party messenger services (*e.g.*, Brinks) to facilitate receipt of deposits and paying of withdrawals does not constitute branching. 12 C.F.R. §7.7490 and as revised January 13, 1993.

F. Use of affiliated banks and thrifts to facilitate banking transactions is not branching. OCC interpretive Letter of October 8, 1992 (intrastate affiliated banks); FDIC Interpretative Letter of August 12, 1993 (intrastate affiliated banks); OCC interpretive Letter of October 18, 1993 (intrastate affiliated banks and thrifts); OCC Interpretive Letter of April 6, 1994 (interstate affiliated banks).

G. Use of third party nonaffiliated nonbank to facilitate deposit taking by national banks is not branching. OCC Interpretive Letter (October 5, 1993).

Mr. RIEGLE. Mr. President, I ask for third reading of the bill.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill clerk read the bill for the third time.

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

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

Mr. RIEGLE. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 3841 and then without objection the Senate then immediately proceed to its consideration, and all after the enacting clause be stricken and the text of our bill S. 1963, as amended, be inserted in lieu thereof.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. RIEGLE. And the bill be advanced to third reading.

The PRESIDING OFFICER. The clerk will read the bill for a third time.

The bill (H.R. 3841) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

So the bill (H.R. 3841) as amended, was passed, as follows:

H.R. 3841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERSTATE BANKING AND BRANCHING

SEC. 101. SHORT TITLE.

This title may be cited as the "Interstate Banking and Branching Act of 1994".

SEC. 102. INTERSTATE BANKING.

(a) IN GENERAL.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) STATE BOUNDARIES.—

"(1) APPROVALS AUTHORIZED.—

"(A) ACQUISITION OF EXISTING BANKS.—The Board may approve an application under this section to permit a bank holding company that is adequately capitalized and adequately managed to acquire control of, or all or substantially all of the assets of, an existing bank located outside of the home State of such bank holding company.

"(B) EXISTING BANKS.—For purposes of this subsection, a bank that does not open for business and that has been chartered solely for the purpose of acquiring control of, or all or substantially all of the assets of, an existing bank shall be deemed to have been in existence for the same period of time as the bank to be acquired.

"(C) COMMUNITY REINVESTMENT COMPLIANCE.—In determining whether to approve an application under subparagraph (A), the Board shall consider the applicant's record of compliance with applicable Federal and State community reinvestment laws.

"(D) STATE LAW.—Subject to paragraphs (2), (4), and (6), a transaction approved under subparagraph (A) may occur without regard to whether such transaction is permitted under the law of the State in which the bank to be acquired is located.

"(2) CONCENTRATION AND OTHER LIMITS.—The Board may not approve an application under paragraph (1)(A) if—

"(A) the applicant controls, or upon completion of the acquisition would control, more than 10 percent of the total deposits held by insured depository institutions in the United States, as determined under regulations of the Board;

"(B) the applicant controls, or upon completion of the acquisition would control, 25 percent or more of the total deposits held by insured depository institutions in the State in which the bank to be acquired is located, as determined under regulations of the Board, except that the State bank supervisor may waive the applicability of this clause on a case-by-case basis if such waiver does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof; or

"(C) the acquisition would result in the applicant directly or indirectly controlling a bank that has been in existence for a shorter period of time, if any, than is prescribed by the law of the State in which such bank is located in effect on the date on which the application is filed with the Board, only if such State law—

"(i) does not prescribe a period of more than 5 years; and

"(ii) does not have the effect of discriminating among out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof. A State law in effect on the date of enactment of the Interstate Banking and Branching Act of 1994 that permits bank holding companies from only a limited number of States to acquire banks in existence for a specified length of time in that State, shall be interpreted, under State and Federal law, as permitting bank holding companies from any State, to acquire a bank in that State, under the terms and conditions of such State law.

"(3) EXCEPTION.—The Board may approve an application under paragraph (1)(A), notwithstanding any provision of paragraph (2), if such application involves the acquisition of one or more banks in default or in danger of default or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 13(c) of the Federal Deposit Insurance Act.

"(4) NO EFFECT ON ANTITRUST LAWS.—Nothing in this subsection affects Federal or State antitrust laws that do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof.

"(5) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(6) EFFECT ON STATE CONTINGENCY LAWS.—Nothing in this subsection affects the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

"(A) the State law does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof;

"(B) that State law was in effect as of the date of enactment of the Interstate Banking and Branching Act of 1994;

"(C) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the appropriate deposit insurance fund; and

"(D) the appropriate Federal banking agency for such institution has not found that compliance with such State law would place the institution in an unsafe or unsound condition.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsections:

"(n) INCORPORATED DEFINITIONS.—For purposes of this Act, the terms 'insured depository institution', 'appropriate Federal banking agency', 'in default', 'in danger of default', and 'State bank supervisor' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

"(o) OTHER DEFINITIONS.—For purposes of this Act—

"(1) the 'home State' of a bank holding company is the State in which the total deposits of its banking subsidiaries were largest on July 1, 1966, or the date on which such company became a bank holding company, whichever is later;

"(2) the 'home State' of a bank is—

"(A) in the case of a State bank, the State in which it was chartered; and

"(B) in the case of a national bank, in the State in which its main office is located; and

"(3) a bank holding company is 'adequately capitalized' if it meets or exceeds all applicable Federal regulatory capital standards.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective 1 year after the date of enactment of this Act.

SEC. 103. CONVERSION OF BANKS TO BRANCHES.

(a) IN GENERAL.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) INTERSTATE COMBINATIONS.—

"(1) IN GENERAL.—

"(A) COMBINATIONS AUTHORIZED.—Beginning on June 1, 1997, a bank holding company having subsidiary banks located in more than 1 State may combine 2 or more of such banks into a single, resulting bank by means of a merger, consolidation, or other transaction approved by the appropriate Federal banking agency.

"(B) CONTINUED OPERATIONS.—A resulting bank may, subject to the approval of the appropriate Federal banking agency, retain and operate as branches the main offices and any branches which, immediately prior to the transaction, were being operated by any combined bank or the resulting bank.

"(C) SURRENDER OF CHARTER AFTER COMBINATION.—On the date on which a combination authorized by this paragraph becomes effective, the charters of the combined banks shall be surrendered to the regulatory authority that issued the charters.

"(2) APPLICABILITY.—A combination under paragraph (1) may only be effected in the case of a merger, consolidation, or other transaction that is undertaken by a bank holding company that is adequately capitalized and adequately managed.

"(3) ACTIVITIES OF THE RESULTING BANK.—

"(A) ADDITIONAL BRANCHES.—Following any combination effected under paragraph (1), the resulting bank may establish, acquire, or operate additional branches at any location where the resulting bank or a combined bank could have established, acquired, or operated a branch under the applicable Federal or State law as if it had not been a party to such combination.

"(B) INTRASTATE BRANCHING.—Except as expressly provided in this subsection, nothing in this subsection shall be deemed to amend, repeal, or preempt, either expressly or by implication, any Federal or State law relating to the establishment, acquisition, or operation of intrastate branches by national or State banks.

"(C) CONDITIONS.—Prior to granting approval to effect a combination under paragraph (1), the appropriate Federal banking agency shall consider each bank's rating under the Community Reinvestment Act of 1977 and the comments of the appropriate State bank regulatory authorities regarding each bank's compliance with applicable State community reinvestment laws.

"(D) IMPOSITION OF SHARES TAX BY HOST STATES.—If any branch of an out-of-State bank established pursuant to paragraph (1) or subparagraph (A) of this paragraph continues in operation, a proportionate amount of the value of the shares of the out-of-State bank may be subject to any bank shares tax levied or imposed by any host State or political subdivision thereof that imposes such tax based upon a method adopted by the host State, which could include allocation and apportionment.

"(4) ACTIVITIES OF BRANCHES.—A State bank that establishes one or more branches

in accordance with paragraph (1) or paragraph (3)(A) may not conduct any activity at any branch located in a host State that is not permitted for banks chartered by such host State.

"(5) APPLICABLE LAW.—

"(A) IN GENERAL.—

"(i) NATIONAL BANK BRANCHES.—Any branch of a national bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State, including those that govern intrastate branching, consumer protection, fair lending, and community reinvestment, as if it were a branch of a national bank having its main office in that State.

"(ii) STATE BANK BRANCHES.—Any branch of a State bank that is established as the result of a combination in accordance with paragraph (1) or paragraph (3)(A) shall be subject to the laws of the host State, including those that govern intrastate branching, consumer protection, fair lending, and community reinvestment, as if it were a branch of a bank chartered under the laws of such State.

"(B) FILING REQUIREMENT.—A host State may require any bank located in another State that wishes to establish a branch within the host State as a result of a combination authorized by paragraph (1) to comply with filing requirements that—

"(i) are not discriminatory in effect; and

"(ii) are similar in their effect to and are subject to similar sanctions as those that are imposed on a corporation having its main office in another State that is not engaged in the business of banking and that seeks to engage in business in the host State.

"(6) STATE ELECTION TO PROHIBIT INTERSTATE COMBINATIONS.—

"(A) IN GENERAL.—Paragraph (1) does not apply to a bank holding company located in a State that has enacted a law after the date of enactment of this subsection and prior to June 1, 1997, that applies equally to all out-of-State banks, and that expressly prohibits interstate combinations involving a bank located in the State, as authorized under paragraph (1).

"(B) EFFECT OF PROHIBITION.—A bank located in a State that has in effect a prohibition described in subparagraph (A) may not be combined, and shall have no authority to be combined under paragraph (1), with a bank located outside of that State.

"(C) EFFECT OF STATE ELECTION.—A law enacted by a State pursuant to subparagraph (A) or paragraph (8) shall have no effect on combinations that were approved prior to the effective date or the date of enactment of such law, whichever is later.

"(7) STATE ELECTION TO PERMIT INTERSTATE COMBINATIONS.—A combination under paragraph (1) may be undertaken prior to June 1, 1997, if each of the States in which 1 or more banks that are to be combined into a single, resulting bank is located has in effect on the date on which the combination is approved a law that applies equally to all out-of-State banks and that expressly permits interstate combinations by national and State-chartered banks. A State described in the preceding sentence may impose conditions on the branch of the resulting bank located in that State if—

"(A) the conditions do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof (other than on the basis of a reciprocal treatment requirement);

"(B) the imposition of the conditions is not preempted by Federal law; and

"(C) the conditions do not apply or require performance beyond June 1, 1997.

"(8) COMBINATIONS AFTER JUNE 1, 1997.—A State described in paragraphs (6) or (7) may elect at any later time to permit or withdraw permission for interstate combinations authorized under paragraph (1) if such State enacts a law that applies equally to all out-of-State banks and that expressly permits (or withdraws permission for, as the case may be) interstate combinations by all national and State banks.

"(9) LIMITATIONS.—Nothing in this subsection—

"(A) affects Federal or State antitrust laws that do not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof; or

"(B) affects section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.

"(10) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection limits in any way the right of a State to—

"(A) determine the authority of State banks chartered in that State to acquire, establish, and maintain branches; or

"(B) supervise, regulate, and examine State banks chartered by that State.

"(11) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(12) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'combined bank' means any bank participating in a combination under paragraph (1), other than the resulting bank;

"(B) the term 'host State' means the State in which a bank establishes or maintains a branch other than the State in which the bank is located and engaged in the business of banking;

"(C) a bank shall be deemed to be 'located'—

"(i) in the case of a State bank, in the State in which it was chartered; and

"(ii) in the case of a national bank, in the State in which its main office is located;

"(D) the term 'resulting bank' means a banking subsidiary of a bank holding company that has resulted from a transaction effected under paragraph (1) involving the combination of 2 or more subsidiary banks of the bank holding company located in 2 or more States; and

"(E) the term 'State bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) CONFORMING AMENDMENT TO THE NATIONAL BANK ACT.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended in the first sentence, by striking "A national banking association" and inserting "Except as provided in section 3(h) of the Bank Holding Company Act of 1956, a national banking association".

SEC. 104. AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT AND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE CONSOLIDATION OF NATIONAL BANKING ASSOCIATIONS".

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENTS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraphs:

"(3) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—The appropriate State official of a host State may examine a branch operated in such State of a bank chartered by a State other than that host State that resulted from a combination effected under section 3(h) of the Bank Holding Company Act of 1956—

"(i) for the purpose of determining compliance with host State laws, including those that govern banking, taxation, community reinvestment, fair lending, consumer protection, and permissible activities; and

"(ii) to ensure that the activities of the branch are not conducted in an unsafe or unsound manner.

"(B) ENFORCEMENT.—In the event that the State bank supervisor of the host State determines that there is a violation of the law of the host State concerning the activities being conducted by a branch described in subparagraph (A), the State bank supervisor of the host State may undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

"(D) FEDERAL REGULATORY AUTHORITY.—Nothing in this subsection limits in any way the authority of the appropriate Federal banking agency to examine or to take any enforcement actions or proceedings against any bank or branch of a bank for which the agency is the appropriate Federal banking agency.

"(E) REVIEW OF INTERSTATE AGREEMENTS.—If the appropriate Federal banking agency determines that the States have reached an agreement under subparagraph (C) that adequately protects the deposit insurance funds, the appropriate Federal banking agency may defer to State examinations of branches operated in the host State by out-of-State banks.

"(4) NO EFFECT ON STATE TAX AUTHORITY.—No provision of this Act shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, and administer any tax or method of taxation to any bank, bank holding company, or foreign bank or to any affiliate of any bank, bank holding company, or foreign bank to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.".

(b) NATIONAL BANKING ASSOCIATIONS.—The Act entitled "An Act to provide for the consolidation of national banking associations", approved November 7, 1918 (12 U.S.C. 215 et seq.) is amended—

(1) in the first sentence of subsection (a) of the first section, by inserting ", or in any State in which a bank is authorized to engage in an interstate consolidation pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located in the same State";

(2) by inserting before the period at the end of subsection (d) of the first section ", except that the applicability of State law to an interstate consolidation undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(3) by adding at the end of the first section the following new subsection:

"(h) An interstate consolidation—

"(1) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(A) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such interstate consolidation were a combination under that section; and

"(B) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(2) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such consolidation were an acquisition under that section 3(d).";

(4) in the first sentence of section 2(a)—

(A) by striking "under an agreement not inconsistent with this Act,"; and

(B) by inserting "or within any State in which a bank is authorized to engage in an interstate merger pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "located within the same State,";

(5) in the sixth sentence of section 2(d) by inserting before the period ", except that the applicability of State law to a merger undertaken in accordance with section 3(h) of the Bank Holding Company Act of 1956 is determined in accordance with the provisions of that section";

(6) in section 2, by adding at the end the following new subsection:

"(h)(1) An interstate merger—

"(A) shall be undertaken under this section pursuant to the procedures, restrictions, and requirements—

"(i) set forth in section 3(h) of the Bank Holding Company Act of 1956 as if such merger were a combination under that section; and

"(ii) set forth in this section, to the extent that such procedures, restrictions, and requirements are not inconsistent with those of section 3(h) of the Bank Holding Company Act of 1956; and

"(B) involving banks that are not affiliated (as such term is defined in section 2 of the Bank Holding Company Act of 1956) shall meet the requirements of section 3(d) of the Bank Holding Company Act of 1956, as determined by the Comptroller of the Currency, as if such merger were an acquisition under that section 3(d).

"(2) Paragraph (1) shall apply to a State member bank involved in an interstate merger on the same terms and conditions and subject to the same procedures, restrictions, and requirements as are applicable to the consolidation of branches by a national banking association involved in an interstate merger."; and

(7) in paragraph (4) of section 3, by inserting "or within any State in which a bank is authorized to engage in an interstate consolidation, merger, or other transaction pursuant to section 3(h) of the Bank Holding Company Act of 1956," after "within the same State,".

SEC. 105. ACQUISITION OF INTERSTATE BRANCHES BY NATIONAL AND STATE BANKS.

(a) ACQUISITION OF INTERSTATE BRANCHES BY STATE BANKS.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraphs:

"(4) INTERSTATE BRANCHING BY STATE BANKS.—

"(A) IN GENERAL.—Beginning on the date of enactment of this paragraph, notwithstanding any other provision of law, a host State may, expressly by statute and not merely by implication, permit all out-of-State banks to acquire or establish a branch in the host State on a basis that does not have the effect of discriminating against out-of-State banks, out-of-State bank holding companies, or subsidiaries thereof. A branch established under this paragraph shall be operated in accordance with the procedures, restrictions, and requirements set forth in section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section 3(h).

"(B) FDIC APPROVAL.—A State nonmember bank may acquire, establish, and operate a branch under this paragraph only if the bank is adequately capitalized and adequately managed and with the prior consent of the Corporation.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'host State' means a State in which a bank acquires, establishes, or maintains a branch, other than the State in which the bank is located and engaged in the business of banking;

"(B) a bank shall be deemed to be 'located'—

"(i) in the case of a State bank, in the State in which it was chartered; and

"(ii) in the case of a national bank, in the State in which its main office is located; and

"(C) the term 'adequately capitalized' has the same meaning as in section 38.".

(b) INTERSTATE BRANCHING BY NATIONAL BANKS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) INTERSTATE BRANCHING BY NATIONAL BANKS.—

"(1) APPROVALS AUTHORIZED.—Notwithstanding any other provision of law, the Comptroller of the Currency may approve an application under this subsection for a national bank that is adequately capitalized and adequately managed to acquire or establish a branch in a host State if the host State expressly permits, pursuant to section 18(d)(4) of the Federal Deposit Insurance Act, all out-of-State banks to establish such branches. Each such branch shall be operated in accordance with the procedures, restrictions, and requirements set forth in section 3(h) of the Bank Holding Company Act of 1956, and the provisions of that section shall apply to the branch as if the branch resulted from a combination effected in accordance with paragraph (1) of that section 3(h).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'host State' means the State in which a national bank establishes a branch under paragraph (1); and

"(B) the term 'adequately capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.".

SEC. 106. COMMUNITY REINVESTMENT ACT EVALUATION OF BANKS WITH INTERSTATE BRANCHES.

(a) IN GENERAL.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding at the end the following new subsections:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this title, as required by subsections (a), (b), and (c); and

"(B) for each State in which the institution maintains 1 or more domestic branches, a separate written evaluation of the institution's record of performance within such State under this title, as required by subsections (a), (b), and (c).

"(2) MULTISTATE METROPOLITAN AREAS.—In the case of a regulated financial institution that maintains domestic branches in 2 or more States within a multistate metropolitan area, the appropriate Federal financial supervisory agency shall prepare a separate written evaluation of the institution's record of performance within such metropolitan area under this title, as required by subsections (a), (b), and (c). If the agency prepares a written evaluation pursuant to this paragraph, the scope of the written evaluation required under paragraph (1)(B) shall be adjusted accordingly.

"(3) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) shall—

"(A) present the information required by subparagraphs (A) and (B) of subsection (b)(1) separately for each metropolitan area in which the institution maintains 1 or more domestic branch offices and separately for the remainder of the nonmetropolitan area of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area; and

"(B) describe how the Federal financial supervisory agency has performed the examination of the institution, including a list of the individual branches examined.

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

"(1) DOMESTIC BRANCH.—The term 'domestic branch' means any branch office or other facility of a regulated financial institution that accepts deposits, located in any State.

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area identified by the appropriate Federal financial supervisory agency.

"(3) STATE.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(b) SEPARATE PRESENTATION.—Section 807(b)(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended—

(1) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(2) by striking "The public" and inserting the following:

"(A) CONTENTS OF WRITTEN EVALUATION.—The public"; and

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

"(B) METROPOLITAN AREA DISTINCTIONS.—The information required by clauses (i) and (ii) of subparagraph (A) shall be presented separately for each metropolitan area in which a regulated depository institution maintains one or more domestic branch offices.".

SEC. 107. 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. 108. GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 109. MAXIMUM INTEREST RATE ON CERTAIN FmHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

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

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

TITLE II—BANK AND THRIFT STATUTE OF LIMITATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 202. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)(B)(i)) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment".

SEC. 203. APPLICABILITY.

The amendment made by section 202 shall apply to all actions pending or brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver on or after August 9, 1989.

TITLE III—FINANCIAL SERVICES

SEC. 301. SHORT TITLE.

This title may be cited at the "National Commission on Financial Services Act".

SEC. 302. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 7 voting members and 3 nonvoting members appointed as follows:

(A) Three voting members and 1 nonvoting member to be appointed by the President.

(B) Two voting members and 1 nonvoting member to be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(C) Two voting members and 1 nonvoting member appointed jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, and shall include representatives of business, agriculture, and consumers.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointment of the members of the Commission shall be made not later than June 30, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this title referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 303. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including all laws, regulations, and policies that govern part or all of the financial services industry or that affect the ability of the financial services industry to effectively and efficiently meet the needs of—

(A) the United States economy;

(B) individual consumers and households;

(C) communities;

(D) agriculture;

(E) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial needs);

(F) governmental and nonprofit entities; and

(G) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the adequacy of the existing framework of Federal and State laws and regulations, and the extent to which Federal laws and regulations, in an efficient and cost-effective manner—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that the financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for all potential users of the system, regardless of where such users are located; and

(C) the extent to which the Federal regulatory structure impacts the achievement of the objectives in subparagraph (B).

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities Exchange Commission;

(H) the Commodities Futures Trading Commission;

(I) the Director of the Congressional Budget Office; and

(J) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations for changes in laws and regulations to improve the operation of the United States financial services system, including needed changes in the Federal legislative and regulatory policies and in the Federal regulatory structure that would enhance—

(1) the ability of the financial services system, or any part thereof, to respond to the needs of all potential users of the system;

(2) the systemic safety of the financial services system;

(3) the cost of financial services to users of the system;

(4) the competitiveness of the various providers of financial services;

(5) how funds are allocated to the financial services system; and

(6) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than March 31, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 304. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 305. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 additional professional staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 306. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 303(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

TITLE IV—GENERAL PROVISIONS

SEC. 401. MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

SEC. 402. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

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

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

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. RIEGLE. Mr. President, I thank my colleague, Senator D'AMATO, and all other colleagues who worked with us on this legislation. It is an important piece of legislation and it has now been passed. We go to conference. I am eager to do so. I thank all involved for their cooperation.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me commend the staff of the Banking Committee, both the majority staff and minority staff.

I certainly commend Chairman RIEGLE for his job in moving this important legislation that will permit us to compete in the marketplaces of our country without regard to boundaries that have little sense today in light of the banking system that has evolved worldwide.

Again, while the logic of this legislation, I believe, is irrefutable, the fact is that political considerations and policy considerations are important to many of the independent bankers. Over a period of time, they kept this legislation from moving forward.

Hopefully, we will see a reduction in cost and increase in earnings and more opportunities for consumers. There is a whole host of reasons why this legislation is necessary.

Again, I commend the chairman for his leadership in undertaking this important matter. He did it in a way which protected people's rights and yet kept a relatively clean bill so that it would not be loaded down with contentious matters that would ultimately lead to its defeat. There is no sense in passing a bill in one House without recognizing the considerations that the other body would be looking to.

So I commend the chairman for his artful and yet forceful leadership.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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 that S. 1963 be indefinitely postponed.

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

MORNING BUSINESS

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

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

The Senator from North Dakota.

THE BANKING BILL

Mr. DORGAN. Mr. President, I arrived in the Chamber just as they were moving to final passage, and I did not want to interrupt the flow of what they were doing.

The chairman has done a wonderful job managing this bill, the Interstate Banking and Branching Act. I know that he has had some difficulty with some health concerns in his family and was leaving. So I did not want to interrupt it.

I did want to take a moment to say a few words on this bill.

I did vote "no." Although we did not have a rollcall vote, when you asked for a voice vote I said "no" largely because I think this bill causes some very significant concerns, at least for me and I hope some others in this country.

I am very concerned about some parts of the banking industry in our country. I should not mean to represent that as the entire industry. But I pick up the newspaper and read about banks losing money under derivatives—something most people cannot even explain—but a kind of financial casino game, I worry about that.

I worried when the S&L's were buying junk bonds, and I was on the floor of the House at that point and the House passed the legislation that prohibited S&L's from buying junk bonds again and I remember they had junk bonds and spent over $100 billion to get rid of them. I was concerned about that.

I am concerned when I read about banks involved in trading derivatives and having speculative losses of substantial amounts of money.

That is not the point with respect to this particular issue. It is just that I wanted to say that I am concerned about a number of things, including the potential for more and more concentration in the banking industry. More concentration in the industry is not going to serve this country's interest. Those of us from rural areas especially, in my judgment, are unlikely to see greater bank service as a result of legislation like this and as a result of legislation in some of the States, including mine.

I think we are likely to see larger concentrations of bank enterprises establishing centers across this country, grabbing deposits out of those areas that might be having slower growth and moving them into investments in areas of higher growth. And I worry a great deal about what that means for rural America.

And I, for that reason, did not support and do not support this legislation. I think history will show this to be ill-advised, at least with respect to the interest of a State like North Dakota or other rural States where we have had great economic difficulty. What we very much need is a network of financial institutions who will take deposits from our States to invest back into our States, and I fear that that is not going to be the case with this type of legislation.

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, my colleague, Congressman DAVE OBEY from Wisconsin, and I, and 37 other Members of the House of Representatives and 8 Senators have signed this letter which we have sent to Federal Reserve Board Chairman Alan Greenspan.

Mr. President, I ask unanimous consent that the text of the letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DORGAN. Mr. President, last week, I indicated I was going to come to the Chamber and share with the Members of the Senate the names and faces of those who helped make interest rate policy in our country. I suggest we should do that because these are people who almost no one would recognize and yet they play a significant role in the lives of every American.

Before I introduce them, let me tell you about the letter we are sending to Alan Greenspan, and the importance of this letter.

Thirty-seven Members of the House of Representatives and 8 Senators, without a lot of circulation, have signed a letter that says we think that you ought to share, Mr. Greenspan and Federal Reserve Board members with the Congress and especially with the American people, what kind of information you are looking at that justifies your decision to increases in interest rates three times in this country in the past several months.

Is inflation on the rise? No, inflation has gone down for 3 straight years. Is there more capacity in this country to handle economic growth? Of course, there is. We have plenty unemployed; we have substantial amounts of plant and equipment that are not in use.

So what is it that suggests to the Federal Reserve Board that we ought to have interest rate increases to put the brakes on the American economy at exactly the time when we need a

steady cruising speed to get this economy up to speed and to produce new jobs for the American people?

We would like the Federal Reserve Board to share with us and to share with the American people what kind of information it looks at, what kind of information it has to justify increasing interest rates on three occasions at exactly the time when this country most desperately needs continued economic growth.

This is monetary policy. We have a strong central bank called the Federal Reserve Board that is unaccountable. It does what it wants. It acts when it wants to. But that does not mean we have to be happy with it. In my judgment, we ought to send strong signals to the Federal Reserve Board that we disapprove.

These interest rate policies are wrongheaded. They will hurt this country. They do, in fact, serve the interests and the constituencies of the Federal Reserve Board, the big money center banks. They are much more concerned about some potential injury from inflation. The Fed leans in that direction, rather than for working families losing their jobs.

The twin economic goals in America of stable prices and full employment are not goals of equal weight, at least in the mind of the Federal Reserve Board. That is clear from the actions of the Fed in the past several months.

The Federal Reserve Board makes decisions with a Board of Governors. The pictures of the Board of Governors are up here. We have two additional appointees who have not yet been confirmed, but President Clinton has named two additional people to the Board of Governors.

And the Open Market Committee down at the Fed contains these folks who are presidents of the Regional Federal Reserve Banks.

Now, when they sit and meet as the Open Market Committee, they make decisions and cast votes that help set interest rates in America. They have a direct impact on every American family. These folks are not appointed, and they are not confirmed. They are not accountable to the political process at all. They are given their jobs by the Board of Directors, the majority of which in every case are bankers in their region.

Now, Mr. President, let me go down the list and you will see that when folks out there talk about the need for refreshment and new blood, nowhere is that more necessary than here. These are folks that have been in that system forever.

But my point is not how long they have been there, my point is these people should never cast a vote on money policy issues that are going to affect the lives of American families, because they are unaccountable. They have never been appointed to anything. They have never been confirmed by anybody.

I am not suggesting they are not good people. I am just suggesting that they ought not be making public decisions unless they are accountable in the public marketplace in this democracy.

I have said before, I would just as soon my Uncle Joe was here someplace. At least he is not an economist or financier. He has made some products and done some business, and he has some notion about what might be practical and good for this country. But we would not have Uncle Joes serving on the Fed. These are all folks who are economists, financiers, and bankers.

Boston, Richard Syron, $177,600 salary. He votes on interest rate policy.

New York, William McDonough, $205,000 salary, economist, M.A.; Philadelphia, Edward Boehne, $184,500 Ph.D., economics; Cleveland, Jerry Jordan, $165,500, Ph.D., economics; Richmond, Alfred Broaddus, $159,600 salary Ph.D., economics, Indiana University; Atlanta, Robert Forrestal, law degree, a lawyer, $212,000; Silas Keehn, Chicago, $221,700 salary, MBA, Finance, Harvard University; St. Louis, Thomas Melzer, $190,900 salary, MBA, finance, Stanford; Minneapolis, Gary Stern, Ph.D economics, Rice University, $175,200 salary; Kansas City, Thomas Hoenig, Ph.D., economics, $159,800 salary; Dallas, Robert McTeer, Ph.D., economics, $161,500 salary; San Francisco, Robert Parry, $229,600 salary, Ph.D economics.

Here is when they joined the Fed system: 1964, 1970, 1967, 1968, 1968, 1981, 1985, 1982, 1973, 1968, and 1965.

Now the reason I bring this to the floor is to point out these are bankers, financiers, and economists who have been in the Fed system for a long, long time. They are paid a substantial amount of money. They are not accountable to anyone. They go in a room, close the door and in secret make decisions that affect all of our lives. Working with the Board of Governors, forming the Open Market Committee, they have made decisions to increase interest rates, at exactly the time when a good many economists believe that there is no imminent sign of inflation on the horizon. And what we most desperately need is to continue the economic growth, continue creating jobs in our economy.

It is not my intention to bring pictures of these folks to the floor to ridicule them or to make fun of them. They are professionals. They have very important jobs. Many of them, perhaps most of them, perform those jobs well.

I object, however, to having people perform jobs in the public sector and to make decisions in the public sector that affect the lives of every American and increase the cost of credit, if they are not in some way, at some point, at some time accountable to someone in this process. And that is not now the case.

I and others have introduced legislation in Congress that would make them accountable and should make them accountable.

One of the pieces of our legislative initiative would be to say none of these regional Fed presidents should ever cast a vote on the Open Market Committee because they are not accountable to anyone. They do not go through this process of confirmation. We ought not have circumstances in which monetary policy is created and made by people casting votes when those people casting votes are representing other interests. Whose interests do they represent? They must satisfy a board of directors. Who are their boards of directors? The majority control of all of those boards of directors are their bankers in their region.

They would, I expect, as would most, faithfully serve their constituencies. In this country we have traditionally, over 200 years of financial history, had a battle between those who produce and those who finance production. It has gone back and forth.

During some decades one side wins; other decades another side wins. Early this century we created an organization called the Federal Reserve Board. It was asserted that this would not become a strong central bank, essentially unaccountable to anyone. But of course 80 years later it has become just that, a strong central bank, unaccountable to anyone. As a result, in this battle between those who produce and those who finance production, those who finance production have an army of allies deep inside the bowels of the Federal Reserve Board doing their work to put them on top. But that is not who needs to be on top.

If this is in fact a contest, what we need on top for America's future and for America's benefit is those who produce, those who produce the goods and services of this country and those who risk the money, not those who finance the production.

I come to the floor today, again with great respect, but with great concern that we have a circumstance in this country today when, having just come through a rather significant economic downturn and having just now started to move this economy forward with several quarters of economic growth, we have a bunch of central bankers who in a closed room decide, "Gee, we see something a lot of people don't. We see over the horizon the danger of inflation. So in order to protect our interests—our constituents, the bankers—we would like to move ahead very quickly, more quickly than many in this country think is advisable."

I know there is not everyone of like mind when we discuss the Federal Reserve Board. In fact, there is a priesthood of language about the Federal Reserve Board that is so arcane and so complex a lot of people do not want to

talk about it. "Money policy? Lord, we don't want to talk about money policy."

In the last century, they used to debate money policy in bars and barbershops. Interest rates were a big deal and everybody felt they had a stake in them. We debated interest rates. It was not too long ago, in the 1960's, when William McChesney Martin, the head of the Federal Reserve Board, was going to increase interest rates one-quarter of 1 percent and Lyndon Johnson invited him down to the ranch and almost squeezed barbecue sauce out of him, I am told, convincing him that was a dumb idea. A quarter of 1 percent, mind you, and it was a major debate. It was on the front pages and it was a major contention between the Johnson administration and the Federal Reserve Board.

We have become so weakened in our willingness to stand up and begin to debate sensible monetary policy for all Americans that you hardly hear a whimper these days or hardly a whisper by anyone when the Federal Reserve Board takes actions that, in my judgment, are counterproductive, to serve a constituency at the expense of my constituency.

So I wanted to at least let people know who makes these decisions. They are decisions I do not agree with but I want people to understand who makes them so we all can begin to understand why it is important for us to start making some changes in the structure of the Federal Reserve Board.

No, I do not want to turn the Fed over to Congress. I do not want us to be the ones who set interest rate policies in this country. That is not my point. My point is, this is a central bank that is unaccountable. Let us do an audit of the bank. Let us stop having people vote on monetary policy who are not confirmed. Let us at least have some notion that if you have a bicycle built for two in which fiscal policy and monetary policy travel on the same vehicle, that one is not pedaling hard uphill while the other is sitting on the back with the brakes on. Let us decide there should be at least some formal consultation process two or three times a year between those who are running fiscal policy and those who are running monetary policy. That is all many of us are asking when we say let us take a look at reforming the Federal Reserve Board.

Mr. President, I am sure I and others will have more to say about monetary policy in the months ahead. I do not know what the result of the Fed's current actions will be, but I believe almost certainly they are not going to help this economy. They are going to retard economic growth.

We have people here who are largely trained in economics and finance. I taught economics in college at one point very briefly. I am not diminishing those who teach or study economics. I would observe this, however. That 35 of the 40 leading economists in the country in 1990 predicted that the next year would be a year of economic growth. Of course, it was the first year of the recession. And the Federal Reserve Board probably uses economists like all of us do. If they say it, we think maybe that is the case. But nobody quite understands what the dynamics are that run this economy. The Federal Reserve Board seems to think it is the carburetor that runs all this, but it is much more complicated than all that.

I hope we would see a confluence of both fiscal and monetary policy that would represent the array of all the interests in this country, not just represent whoever happens to win in this decade in the struggle between those who produce and those who finance production.

Mr. President, I yield the floor.

EXHIBIT 1

HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 1994.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR MR. CHAIRMAN: On three separate occasions over the past three months the Federal Open Market Committee has acted to increase interest rates. We are writing to express our concern over the Fed's actions, and to request that the Board take no further action to increase interest rates until you, as Chairman of the Board, have explained to Congress and the American people the basis for the board's decisions.

During your appearances before Congress you have made several points with which we agree. Among these is that long term economic growth depends on low and stable long term interest rates. Another point with which we concur is that inflation and inflationary expectations are a primary threat to low and stable long term rates.

You have testified that you believe low long term rates could be protected, and inflationary pressures controlled, with a slight increase in short term rates. The clear implication of your testimony was that short term rates could be increased just enough to preempt inflation without increasing long term rates and imperiling the economic recovery.

Just as clearly, this has not occurred. The Fed's actions have driven up long-term rates, destabilized financial markets and put the economic recovery at risk. Moreover, these actions have been undertaken at a time when there are no significant signs of impending inflation to justify your decision to raise any rates.

Consumer prices are under control. At the supermarket, in fact, grocery prices are actually falling. Most producers of packaged items say that fierce competition will prevent price increases in the immediate future. Many large marketers—like General Mills—continue to slash prices.

Recent economic surveys reinforce this observation. Inflation rates have actually been falling for the past three years, from 3.1 percent in 1991, to 2.9 percent in 1992 and 2.7 percent in 1993. This trend continues, with inflation measuring 2.5 percent last March.

Last year, unit labor costs—a major component of prices—rose only 0.8 percent, the smallest increase in almost 30 years.

The Fed's recent pre-emptive strikes against nonexistent inflation could be likened to a physician's prescribing antibiotics without any specific sign of illness, on the grounds that the patient will doubtless develop an infection at some time in the future. Higher interest rates are not a vaccine against inflation. They are a vaccine against economic growth and job creation.

Just as there are no disturbing signs of inflationary price increases over the horizon, there are no signs that the economy is growing too fast. Currently, 8.5 million workers are unemployed. At least 600,000 potential workers are too discouraged to seek employment. And the combination of productivity improvements and corporate "downsizing" creates even more economic slack.

In fact, according to your own data, U.S. industry is operating at just over 83 percent of capacity, well below the rate analysts consider inflationary. Worldwide, excess capacity is even greater. Europe and Japan are in recession; imports from those countries will continue to discourage U.S. price increases even if our own expansion continues unhindered by the Federal Reserve.

The benefits of this economic recovery for middle class working families will be derived from more jobs at higher wages. We cannot afford a two-tiered recovery or economic policies that benefit those with bankable resources at the expense of millions of Americans who were left out of the expansion of the 1980's and continue to be left out of the economic recovery today.

The Federal Reserve should not act to increase rates further, until you, as Chairman of the Board of Governors, have explained to Congress and the nation the basis for any such decision.

Sincerely,

Byron L. Dorgan; Howard L. Berman; Louise M. Slaughter; David Obey; Lee H. Hamilton; David E. Bonior, Kweisi Mfume; Bill Richardson; Esteban E. Torres; Bob Wise; Carolyn B. Maloney; John Bryant; Norman Y. Mineta; Robert Torricelli; José E. Serrano; Vic Fazio; Martin O. Sabo; Alan Wheat; Rosa DeLauro; Butler Derrick; George Miller; John Conyers, Jr.; Sam Gejdenson; Barney Frank; Nancy Pelosi; Maurice Hinchey; Dan Hamburg; Bart Stupak; Carrie P. Meek; Dick Durbin; Cynthia McKinney; Peter Barca; John Lewis; Patsy T. Mink; Gerald D. Kleczka; Harry Reid; Edward M. Kennedy; Tom Harkin; Kent Conrad; Joe Moakley; Norm Dicks; Chuck Robb; Dale Bumpers; Jeff Bingaman; Anna G. Eshoo.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. SIMPSON. I thank the Chair.

PRESIDENT RICHARD NIXON

Mr. SIMPSON. Madam President, even now as the reality of it all starts to settle in on us, it is hard to believe that Richard Nixon is gone. He was

many things in life—an extraordinary politician, a President who accomplished a great deal, a loving father, a devoted husband, a leader in foreign affairs, and a diplomat of incredible talent, ability, and foresight.

He was all of these things and so much more. He was also a very dear friend, someone on whom I and so many of my colleagues came to rely upon for sage advice that cut right to the heart of every issue we presented to him and he to us. I know that I shall personally truly miss him, for I used to spend time with him in New York and also here in Washington. When he would come here, he would call, and I would go to his hotel. In only moments, suddenly one could clearly realize that President Nixon had some incisive suggestions, advice, and counsel which would be of assistance in extricating ourselves from some difficult position, whether in domestic or in foreign affairs. He always had an extraordinary reservoir of good sage commentary.

So when I sat down and began to put some thoughts together to express my feelings, as so many of us are preparing to make the journey to Yorba Linda to pay our last respects and bid him farewell, I fondly remembered back about 36 years ago. It was 1958, and it was an election year. In my memory, there was a faint fall chill in the air, as there often is in Wyoming during campaign time. My dear father, Milward Simpson, was then the Governor of Wyoming. We had all gone to an event at which Vice President Richard Nixon would be the main attraction. My dad was involved in a campaign too—a spirited re-election campaign it was, indeed. The slogan of the Democrats that year was, "Give 'em the gate in '58." They did that very well with my father. They gave him the "gate," and he was defeated for reelection as Governor. Later he went on to run for the U.S. Senate and was elected with a great majority, and that pleased him.

Richard Nixon was like that, too. He had been up and he had been down. I recall the remarkable entourage that was there to greet him on that fall day in 1958. We all stood together as a family—Pop, Mom, my wife Ann, and our young son, our first-born, Bill. I recall Richard Nixon coming toward us from the plane and thanking us for attending. Then he scooped up our five young son, held him for a moment, and, of course, the cameras were clicking. Later a picture came from the Vice President to that son, which was a souvenir with an inscription of that special day some 30 odd years ago.

That was my first visit with Richard Nixon, but it was certainly not the last. From 1958, down through the years, I came to know this remarkable man as did we all as Vice President and President.

More recently, I was privileged to come to know him on a more personal basis as an adviser, a confidant, and as a strategist for our party and for our country. He has earned a serious place in our history. I do not think anyone will ever fire the emotions of the Nation as he did. In his over 40 years of public life, he served as a lightning rod for some incredibly powerful passions from all along the political spectrum. He was a man whose friends were well aware of his shortcomings—the foibles we all try to hide from others, and from ourselves. His enemies had to give him his due, grudgingly indeed, because he was a brilliant political strategist, a foreign policy wizard, a tough campaigner, and an expert in the realm of foreign affairs.

He had few equals in those areas. No one understood politics better than Richard Nixon. I like to say, like my friend Lloyd Bentsen often has: "Politics is a full contact sport." No one knew that better than Richard Nixon did. He also knew something else, that in politics losing and winning are both part of the same game. And if you cannot handle losing, you will never be a winner. There is no denying that Richard Nixon was a winner. I do not think we will ever see a politician placed on five national tickets who walked away a winner in four of them.

I want to share a favorite quote of his. I have seen this in various versions. This is probably the most succinct version. It summed up his feelings about politics, and it was spoken by Theodore Roosevelt. It has been called "In the Arena," which President Nixon later used as a title of one of his many books. All of his books were always pungent and clear. But the quote was: "Far better it is to dare mighty things, to win glorious triumphs, even though checkered by failure than to take rank with those poor spirits who neither enjoy much nor suffer much because they live in the great twilight that knows not victory nor defeat."

Richard Nixon was always quite impossible to categorize. If you did not think he was "on the mark" on one issue, you found yourself thinking he was "on the beam" in another. Those who criticized his early days as an anti-Communist later found themselves forced to admit that his reputation and the credentials he had forged during those days made him the only political leader who could have gone to China to pry open that long closed door. The door was opened, and it truly was "the week that changed the world," as Nixon himself called it. With the lines of communication now open between our country and China, Nixon then focused on warming our relationships with the Soviets, and he succeeded. His efforts resulted in some vital arms control agreements.

Through the years, he also had some intriguing encounters with the media. Yes, indeed, he did. We all recall his comments—I have seen it replayed many times in the last few days—to the press after losing the governorship of California: "You won't have Richard Nixon to kick around anymore"—or his comment to David Frost during his interviews with the President signing that the people being attacked by the media ought to "come right back and crack 'em in the puss."

That was the sort of combative spirit that helped the President, who had resigned his office, return and once again take an active part on the national scene. He could have been reclusive. He could have quit. He could have said, "This is too much." But, no, he did not. In the 20 years since he left office, we came to know Richard Nixon on a more intimate and personal level—all Americans did. We came to be remarkably impressed by his wisdom and vast insight of various aspects of our life in government.

He was a political resource to other Presidents, and he also gave freely of that. He was an advisor to members of both political parties on foreign affairs and domestic politics. He spoke the language of politics with an ease and knowledge and spirit and earthiness that few others ever had. And he was all that.

I remember in our visits how often, with a pungent turn of the phrase, you could suddenly rivet in on what was being obfuscated or what was being covered over or what was not being dealt with honestly on the national scene.

Upon learning of his passing, President Clinton himself said that this is "a world of great opportunity in no small part because of the vision of Richard M. Nixon." I think the President was very generous in those remarks, and his remarks are much appreciated.

The vision which Richard Nixon had was taken from us all too soon. America shared 81 years of life with him, and because he was a public figure, we were with him almost every step of the way. We watched from the sidelines, critiquing, "second-guessing," observing with fascination as to where his chosen path would take him, and wondering whether he would be beaten down? Would they not finally get him? They never did.

And through it all, he had the caring and support of his beloved wife, Pat and those magnificent daughters Tricia and Julie and stalwart sons-in-law, Ed and David, and the dearest of grandchildren. Pat was a woman of total grace, style, civility, and kindness. She was a magnificent, special woman. I do not think he ever really became adjusted to life without her. She was his helpmate and companion, and his life without her became much more difficult for him.

My dear mother, Lorna Simpson, was a great friend of Pat Nixon. They were much the same. Those same adjectives

I would use to describe her are adjectives that I would use to describe my own mother, who is in her 93d year of life and who is a woman of great zeal and steadiness, and love and loyalty. She also came right through with flying colors in a political family. I can tell you that. And she still does.

So we will be traveling to Yorba Linda, as several of us also did for the services for his beloved Pat. We will go there to celebrate a life fully lived, that has all of the elements of life, fully reflected in every facet. It was a life of great success, and great tragedy. It was a life of great hope at times, and times when he must have surely felt total despair. His was a life that was "larger than life itself", and it was all played out on the stage before all of us, the stage of public life. The floodlights burned bright, where no one could hide. It was all out there in public view. And his life was performed for all for us—for us and the rest of the world to see.

He was a man of amazing power, energy, fortitude, and guts. And I shall leave it to the historians to sift through the emotion—of which he had plenty, as most great men do—and find the essence of the man that was Richard Nixon.

For me, his life is summed up in his own words, they appeared in his book, "In The Arena." He said:

> In the end, what matters is that you have always lived life to the hilt. I have been on the highest mountains and in the deepest valleys, but I have never lost sight of my destination—a world in which peace and freedom can live together. I have won some great victories and suffered some devastating defeats. But win or lose, I feel fortunate to have come to that time in life when I can finally enjoy what my Quaker grandmother would have called "peace at the center."

I close with a lovely little couplet that my grandmother used to share with me when I was a young man, and which served me well in political life, because in this line of work, if you are doing anything, you are making enemies.

So this is a quote from Charles Mackay, who lived between 1814 and 1889. And it is this:

> You have no enemies, you say?
> Alas! my friend, the boast is poor—
> He who has mingled in the fray
> Of duty, that the brave endure,
> Must have made foes! If you have none,
> Small is the work that you have done;
> You've hit no traitor on the hip;
> You've dashed no cup from perjured lip,
> You've never turned the wrong to right—
> You've been a coward in the fight!

I think that says a lot about Richard M. Nixon. I am very glad that my friend has found his peace, and may he rest safely and securely in His arms.

We shall be there to pay proper respect to his life, and he will be properly honored in memory. And I shall be there.

I thank the Chair.

JACK BALLARD, U.S. CAPITOL POLICE OFFICER

Mr. WARNER. Madame President, I stand today to recognize the achievements and contributions of a man well-known to and admired by my colleagues: Jack Ballard, U.S. Capitol Police officer. Since 1974, Jack has served with great distinction, most recently at his post on Delaware Avenue next to the Russell Senate Office Building. Now he is about to embark on a well-deserved retirement.

During my 15 years in the Senate, I have had the good fortune to be greeted by Officer Ballard almost every day, rain or shine. Not only has Jack provided invaluable and professional service to me personally, or to my colleagues—he has always gone out of his way to assist visitors to find their way and enjoy their Capitol. Jack Ballard's kind attentions have often transformed a visitor's stay from an experience in bewilderment and confusion to one of pride and enjoyment. He has never been above assisting others confronted with Washington's challenging winter weather conditions, either. His knowledge, guidance, friendliness, and willingness are but a part of the dedication demonstrated by the Capitol Police—qualities which make our police force such a strong and effective organization. Moreover, Jack's intelligence, competence, and experience have been matched by his wit, humor, and patience.

I am pleased to count Jack Ballard, a resident of Springfield, VA, among those I am privileged to represent. A "second generation" Capitol Police officer, Jack followed in the footsteps of his father, himself a 38-year veteran of our force. Obviously Jack was no novice in the ways of the Capitol Police force when he chose to join its ranks.

Conversations with Jack have always been fascinating for Senators and staff alike, largely due to his previous experience. Before his Capitol Hill service, Jack Ballard gained diverse and colorful experience in the field of motion pictures. Indeed, he has had a lifelong interest in the field—his very first job was as a theater usher during school vacations. When school was in session, Jack polished his second field of interest delivering newspapers in the House office buildings.

Following graduation from D.C. Eastern High School, Jack returned to the movies, managing local theaters specializing in foreign films. With the help of a childhood friend, Jack broke into motion picture production. That career took him to Boston and, ultimately, to New York, where he met his beloved Isabel, who would become his wife.

Shortly after Jack and Isabel were married, Jack brought his wife back to Washington and began his service with the U.S. Capitol Police. After 7 years of general assignments, Jack was pleased to be assigned to his present Delaware Avenue post. From then until the present day, he has provided for the safety and well-being of all he meets—not to mention their enjoyment.

Jack summarizes his career in the words of his father: "A job I could do and a job I enjoyed doing." To those of us who have benefited from his years of exemplary service, those words are an understatement. His service has touched us all, and I know we all wish him many wonderful, joyous and prosperous years ahead.

IN REMEMBRANCE OF LT. COMDR. THOMAS SELBY DUNMIRE, U.S. ARMY, RETIRED

Mr. AKAKA. Madam President, I have just returned from Arlington National Cemetery where I attended the interment service for Lt. Comdr. Thomas Selby Dunmire, U.S. Army, retired, and it is my sad duty, but a privilege, to eulogize him today. Lieutenant Commander Dunmire, a West Point graduate, passed away on April 18, 1994. He served our country with honor and distinction.

I first met Tom in 1977 when he began his second career as a consultant to the Committee on Interior and Insular Affairs, and I was serving in the House of Representatives. This distinguished West Point graduate served us with the same dedication as he did the U.S. Army.

I would like to share my thoughts on a dear friend with this eulogy which was presented to the family at his memorial service at the National Memorial Cemetery of the Pacific last Friday:

> To the family of the late LTC Thomas Selby Dunmire, Ret.: Millie and I extend our deepest sympathy to you in your bereavement. We were saddened to learn of the passing of beloved LTC Thomas Selby Dunmire from this life into life eternal, and share the strength of our faith and aloha with all of you in this time of sadness. We shall all miss Tom, whom I met some years ago when he began his second career as a able, knowledgeable and dedicated committee staffer who was of immense value to Members of the House of Representatives, particular in the Committee on Interior and Insular Affairs, because of his willingness to always go the extra mile.
>
> Tom lived a full and fulfilling life. Not willing to be inactive in retirement, after active service in which he earned the Legion of Merit, the Bronze Star and a Commendation Medal with Two Oak Leaf Clusters, this West Point graduate was a past president of the Retired Officers Association, Hawaii Chapter. I shall always think of Tom as one who served the military with distinction, and continued to distinguish himself in civilian service. He answered a lifelong call to duty.
>
> Tom will be sorely missed by his loving family and all who knew him. And, as we remember his friendship and dedication and commitment to duty, honor, country, we thank the family for sharing so generously of Tom. We thank our Lord for his life, and take comfort in the thought that his spirit remains with us.
>
> It is a privilege for Millie and me to join you and your friends to wish Thomas Selby

Dunmire a last fond aloha. His memory will live in our hearts forever.

TRIBUTE TO PRESIDENT NIXON

Mrs. KASSEBAUM. Madam President, tomorrow our Nation mourns the death of President Nixon, our 37th President.

I do not know what history's judgment will be on Richard Nixon. He was a man whose personal flaws became the flaws of a deeply troubled Presidency. But his great personal strengths also leave their imprint on our Nation in both foreign policy and domestic affairs.

In many ways, Richard Nixon was one of our great foreign policy Presidents. His foresight and courage in seeking reconciliation with China still serve our Nation well as we move forward into a global economy that President Nixon helped shape in its earliest stages.

Our victory in the cold war, which has produced a more secure America, also was the logical extension and a product of President Nixon's steadfast commitment to our national interests. He understood, as few do, that America has a dominant role in world affairs and must be willing to provide leadership.

Our Nation owes a deep debt of gratitude to this troubled and brilliant President. His death is a loss to us all. I join with my colleagues in expressing condolences to his family in this time of mourning.

ON THE ARMENIAN GENOCIDE

Mr. BIDEN. Madam President, this month we mark the Armenian genocide—the horrible atrocities committed against the Armenian people in the early part of this century. We memorialize the tragic events that resulted in the deaths of an estimated 1.5 million Armenians—the victims of the Ottoman Empire's brutal and systematic massacre which lasted from 1915 to 1923.

In April 1915, mass executions and deportations of leading Armenians began what was to become an almost 10-year onslaught. Families were forced to leave their homes and belongings and flee, on foot, to Syria. The very old and the very young were often starved to death, women were raped, children were hanged, and priests were beheaded. All this, the Ottoman Government claimed, was a defense tactic. Let us state it simply: The Armenian people were victims of a ruthless and oppressive government embarked on a campaign of murder.

There are elderly survivors of the genocide which took place in Armenia 70 years ago who still bear the emotional scars of those events, as do their descendants. Armenians throughout the world maintain the cultural traditions of their ancestors and honor the memory of those who died. We, as a nation, must honor these brave people by heeding the memory of their persecution so that their deaths need not be in vain.

An Armenian survivor from my home State of Delaware, Yeranouhi Najarian, said that "with her first view of Ellis Island came the first true feeling of safety from the tragedies in the Ottoman Empire." She went on to say, "When I saw the Statue of Liberty * * * I said, 'this is a free country.'" Let those words give us courage to protect and maintain a society in which such ideals can flourish, as was intended by America's Founders. Mrs. Najarian also stated that, "for every Armenian who lived, there was a good Turk who protected him." Let the world take note—in every instance of brutality, there are those who protect and value human life.

IN RECOGNITION OF THE 100TH ANNIVERSARY OF TRAVELERS AID SOCIETY OF RHODE ISLAND

Mr. PELL. Madam President, this month, Travelers Aid Society of Rhode Island is celebrating the 100th anniversary of its service to the Rhode Island community.

Travelers Aid Society provides needed comprehensive social services to individuals and families across a much broader spectrum than is implied by the society's name. The Travelers Aid Society's array of services to those in need, whether Travelers or not, include health care, employment training, education for adults and at-risk youth, and emergency housing and shelter.

Caring, dedicated volunteers play a crucial role in Travelers Aid Society's service to the less fortunate of our community. These volunteers range in age from high school to senior citizens. My mother was one throughout World War II. Because of the selflessness of its many committed volunteers, the Travelers Aid Society Center in Providence is open 24 hours a day, 7 days a week.

The Travelers Aid Society of Rhode Island has benefited the lives of many. One story which has been brought to my attention involves a young woman named Diana. Diana began drinking and smoking marijuana at age 11. At age 14, Diana had discovered cocaine. Diana had become both an alcoholic and a drug addict by the time she graduated from high school.

After graduation, Diana could not hold a job. She was fired for her behavior after happy hour lunches. Then, Diana became involved in an abusive relationship, which led to more substance abuse. Finally, Diana threatened suicide and was admitted to a psychiatric hospital.

Diana was released from the hospital after a 5-day stay. When she got out, Diana knew it was only a matter of time before she turned to alcohol or drugs again. That is when Diana went to Travelers Aid.

With the help of the Travelers Aid Society's addicts recovery group, Diana is on the right path. She has a full-time position as a nursing assistant, her own apartment, and expects to start taking community college courses. Diana also volunteers at Travelers Aid where she uses her story to help others.

Diana is just one example of the many, many people whom Travelers Aid Society has assisted during its 100 years of service to the Rhode Island community. The Travelers Aid Society staff and volunteers should be proud of all the good resulting from their time and tireless efforts.

I know well the value of the services provided by Travelers Aid to the people of our State. We have worked together closely over the years to provide assistance to those Rhode Islanders who may have fallen through the cracks of our social safety net. And I know that it is through the dedication and compassion of its leaders, including its president, Marion Avarista, the Travelers Aid has so successfully addressed urgent needs in the lives of so many.

As with many States that have experienced harsh winters and inclement weather, Rhode Island has found its need for Travelers Aid particularly acute in recent years. Travelers Aid has always been there to help, and, I surely hope, will always remain so.

I hope my colleagues will join me in congratulating Travelers Aid of Rhode Island on this important occasion and expressing our gratitude for the important work they have done.

A HISTORICAL DAY IN SOUTH AFRICA

Mr. PELL. Madam President, in an era of momentous developments, the beginning of the first multiracial elections today in South Africa is one of the most historic events of our time. This has been a pivotal week for the people of the Republic of South Africa. A week of exhilaration and hope as the country's majority cast their votes to determine the leadership of their country for the first time in their lives.

I was moved by the elderly South Africans I saw standing in anticipation before their polling stations this morning, savoring their first-ever chance to cast a ballot and mindful of all that had passed to make the moment possible. Tomorrow we will see their younger counterparts making their choices. They have been the driving force in the struggle to end apartheid and their votes will be decisive in bringing about major changes in South Africa's leadership.

South Africans and observers around the world anticipate that ANC leader

Nelson Mandela will be the next leader of South Africa. I have met Mr. Mandela several times at the Foreign Relations Committee and I never cease to be impressed by his composure in the face of all he has endured and his resolve to do what is necessary to improve the lives of his people and all South Africans. As a promoter of peace and a man who made an admirable effort to cooperate with the present regime for the sake of his countrymen, I believe that if elected he will make an excellent president for all the people of South Africa.

There are so many who deserve our praise for their total dedication to democracy in South Africa and to creating a state that governs for all its people regardless of race. President F.W. de Klerk warrants much admiration for the tough choices he made to advance democracy and peace in a nation that was so troubled. President de Klerk's commitment to dismantling apartheid brought a great deal of threatening criticism from a vocal white fringe even while the majority of whites voted in a referendum to support his vision of a united South Africa. Nonetheless, he persevered and the majority of whites supported President de Klerk's progressive actions even though decreased political power was to be the certain result of the changes he implemented.

Now I urge de Klerk to find the means of controlling those elements of the radical minority who are using violence to derail the advent of democracy. Sunday and Monday's bombings left over 20 people dead and scores wounded. That such tragedy should come in the midst of such exhilaration is especially poignant. These rogue elements must understand that they will never succeed in crushing the democratic forces of South Africa. Their participation in violent acts is a terrible blemish on their community and the only option left for them is to make peace with their fellow South Africans and forge their future through democratic participation.

Though I am troubled by the violence which has accompanied South Africa's transformation, I am at heart inspired by this historic election and delighted to see the spirit with which South Africans of all races are coming together to forge a new multiracial, multiparty government for the Republic of South Africa. In 1986, I was an original cosponsor of the Anti-Apartheid Act which helped to focus the administration on the struggle against apartheid in South Africa. In 1993, I was proud to help introduce the legislation which repealed our sanctions against South Africa at the urging of Nelson Mandela. Nothing makes me happier than to be able to rejoice with South Africans today as they cast their ballots for democracy, peace and a new era.

CHRISTIAN APPALACHIAN PROJECT

Mr. FORD. Madam President, it has been said that you can preach a better sermon with your life than with your lips. If that is true, then we have got some natural-born preachers in eastern Kentucky.

Next week, the Christian Appalachian Project will dedicate a house their volunteers built for the Hall family of Martin County. The Halls lost their house to a fire during the winter of 1993.

As far as I am concerned there could not be a house with a more solid foundation; one of community cooperation and good will. In fact, it is hard to count the number of good intentions that helped to put the walls of this house in place.

It all began when the Make-a-Wish-Foundation of Point Pleasant, WV, set out to make a wish come true for the Halls' 5-year-old daughter who suffers from cancer.

Kayla turned down a trip to Disney World and instead asked for a play house. When a contractor could not be found in the area, the Christian Appalachian Project came to the rescue with a crew of volunteers.

But when the volunteers arrived, they discovered the playhouse was to be built on the site where the family's home had burned down. While volunteers got to work making Kayla's wish come true, Assistant Director Rose Price got to work on a real house for the Halls.

Madam President, no government policy or program can compare with the cooperation and service this community demonstrated through their actions, not just their words.

The Christian Appalachian Project, the Make-a-Wish Foundation, and the many volunteers from Martin, Lawrence, and Floyd Counties have my thanks and praise for showing just what kind of communities you can find in eastern Kentucky.

But more important, they have the satisfaction of knowing they have made a difference in the Halls' lives and consequently, in their community's future as a whole.

ELECTIONS IN SOUTH AFRICA

Mr. LAUTENBERG. Madam President, this week the people of South Africa will go to the polls to elect new leaders who, at long last, will represent all the people of that country.

The South African elections mark the formal end of the racist apartheid regime and the rule of oppression. They mark the beginning of a new multiracial government in South Africa and an opportunity for the black majority to play a role in charting their own future.

The road to democracy for the black majority in South Africa has been filled with pain. It has been marked by oppression and injustice, violence, and suffering. In a profound demonstration of the resilience of the human spirit, the black majority has persevered in their pursuit of fairness and democracy. That they will go to the polls for the first time this week is testament to their tenacity and determination to ensure that their voice will be heard in government.

South Africa now stands in the crossroads of change and opportunity as a new nation, one nation for all people. Breaking down the racist apartheid regime of the past has been a long and difficult task for the people of South Africa. I believe economic sanctions were the one tool that had the effect of influencing that country to live up to its responsibility to all of its citizens. The victory of democracy in South Africa is for those who supported the sanctions which made the very movement toward democracy possible.

We must never be afraid to use our economic power to promote justice and freedom. New Jersey was not. In the New Jersey State Legislature, Willie Brown led the charge many years ago to write the law requiring divestment. The Federal Government played an important role as well. Despite intense opposition, Federal legislation to impose tough sanctions against South Africa was approved in the Congress. I supported those sanctions as one way to influence the end of abuses under the apartheid regime.

In my own visit to South Africa many years ago, I witnessed firsthand, the injustice and oppression of the apartheid system. As I walked the streets of Soweto, I saw people living in squalor, barred by law from having equal educational or professional opportunity. Those that protested were imprisoned, tortured, or killed.

Now, as we look to a new future in South Africa, we must look to economic programs which will have a meaningful impact on education, health, and business development in the townships. For the first time, blacks will vote and ensure their part in crafting that agenda.

The outbreak of violence must not derail this historic process and prevent the black majority from participating in the democratic process. It must not stand as an obstacle to democratic reform in a country desperate to embrace that very theme. The people of South Africa have waited too long for the apartheid regime to come crumbling down. The United States must play a constructive role in promoting and facilitating the move to democracy and work to ensure that South Africa has the economic ability to make the transition to democracy.

Madam President, I am inspired by these elections and by the opportunity they provide for the majority of people in South Africa. They are long over-

due. For too long, the international community supported a system which mandated that a majority of its citizenry had no voice in government. This week that system will come crumbling down. This week, the black majority in South Africa, at long last, will officially be given a voice. In America, we will never forget the long road they were forced to travel to gain that right to vote.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:09 p.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the 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; with an amendment.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 2005. An act to make certain technical corrections, and for other purposes.

S.J. Res. 150. Joint resolution to designate the week of May 2 through May 8, 1994, as "Public Service Recognition Week."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. BYRD).

At 7:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 143. Joint resolution providing for the appointment of Frank Anderson Shrontz as a citizen regent of the Board of Regents of the Smithsonian Institution.

S.J. Res. 144. Joint resolution providing for the appointment of Manuel Luis Ibanez as a citizen regent of the Board of Regents of the Smithsonian Institution.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2554. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation to authorize certain construction at military installations for fiscal year 1995, and for other purposes; to the Committee on Armed Services.

EC-2555. A communication from the Acting General Counsel, Department of Defense, transmitting, a draft of proposed legislation entitled "National Defense Authorization Act for Fiscal Year 1995"; to the Committee on Armed Services.

EC-2556. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, the quarterly report on trade between the United States and China for April 1994; to the Committee on Finance.

EC-2557. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-221; to the Committee on Governmental Affairs.

EC-2558. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-225; to the Committee on Governmental Affairs.

EC-2559. A communication from Acting Archivist of the United States, transmitting, pursuant to law, the annual report of the National Archives and Records Administration for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2560. A communication from Acting Archivist of the United States, transmitting, pursuant to law, the report on records disposal for fiscal year 1993; to the Committee on Governmental Affairs.

EC-2561. A communication from the Director of the U.S. Trade and Development Agency, transmitting, pursuant to law, the report of financial statements for fiscal year 1993; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, with an amendment:

S. 1927. A bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1935. A bill to prohibit lobbyists and their clients from providing to Legislative Branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures.

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. BURNS:

S. 2044. A bill to provide that funds available to the Department of Agriculture for the prescription of final regulations relating to certain law enforcement activities of the Forest Service be utilized instead for the improvement of trails on National Forest System lands for the purpose of improving the access of individuals with disabilities to such lands; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL (by request):

S. 2045. A bill to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the United States contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Relations.

By Mr. COCHRAN:

S. 2046. A bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CHAFEE:

S. 2047. A bill to amend title 38, United States Code, to provide that receipt of additional disability compensation for dependents not depend upon the waiver of receipt of an equal amount of retired or retirement pay; to the Committee on Veterans Affairs.

S. 2048. A bill to amend title 38, United States Code, to provide that the reduction by waiver of retired pay due to receipt of compensation or pension not apply to retired pay attributable to pay for extraordinary heroism; to the Committee on Veterans Affairs.

By Mr. RIEGLE (for himself and Mr. SARBANES) (by request):

S. 2049. A bill to reduce homelessness, reform public housing, expand and preserve affordable housing and home ownership, ensure fair housing for all, empower communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (by request):

S. 2050. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WARNER:

S. 2051. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORTON:

S. 2052. A bill entitled the Recreational Boating Safety Program Funding Improvement Act; to the Committee on Finance.

By Mr. BRADLEY:

S. 2053. A bill to prevent handgun violence and illegal commerce in firearms; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 2054. A bill to amend the Rural Electrification Act of 1936 to remove the 7-percent interest rate limitation on certain Rural Electrification Administration loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WOFFORD:

S. 2055. A bill to amend the Guaranteed Rural Housing Loan Program provisions of

the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. COVERDELL, Mr. STEVENS, and Mr. MACK):

S. Res. 206. A resolution relative to the compilation of eulogies on the life of Richard M. Nixon, former President of the United States; considered and agreed to.

By Mr. SIMON (for himself, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Ms. MOSELEY-BRAUN, Mr. PELL, Mr. WOFFORD, and Mr. FEINGOLD):

S. Res. 207. A resolution expressing the sense of the Senate regarding the tragic humanitarian and political catastrophe in Rwanda; considered and agreed to.

By Mr. KERRY:

S. Con. Res. 67. A concurrent resolution to correct technical errors in the enrollment of the bill H.R. 2333; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 2044. A bill to provide that funds available to the Department of Agriculture for the prescription of final regulations relating to certain law enforcement activities of the Forest Service be utilized instead for the improvement of trails on National Forest System lands for the purpose of improving the access of individuals with disabilities to such lands; to the Committee on Agriculture, Nutrition, and Forestry.

FOREST SERVICE FUNDS ACT OF 1994

Mr. BURNS. Mr. President, I rise today to introduce legislation that is meant to make a point. The bill I am introducing would direct the U.S. Forest Service to redirect the money that is being currently spent on a rule, and instead spend those moneys on trailbuilding for handicapped access in our national forests.

Most of us going home over the holidays—and especially myself, from Montana—found that we have a firestorm going on in our States about some rules that have been submitted by the Forest Service.

Mr. President, I serve on the Interior Subcommittee of Appropriations. I understand just how tight Federal dollars are.

That is why I am so upset by what the Forest Service now appears to be up to. I am sure that most of my Senate colleagues are unaware of the fact that the Forest Service has issued a proposed rule that would, among other things, make it illegal to carry a gun in a national forest, make it illegal to pick up and carry a pine cone out of a national forest, make loud noises, or to curse in a national forest. It would make the use of controlled substances a misdemeanor rather than the felony that it now is, and it would authorize the payment up to $500 to snitches for information leading to the convictions of citizens—such as yourself—for any of the above crimes.

I think the rock hounds and the folks that use our national forests are really up in arms about this proposed rule.

Mr. President, if this was not so scary, I would laugh. But it is no laughing matter. The Forest Service is serious about this, and several other proposed rules that they have issued. There are other efforts to prevent citizens from cutting firewood. And I realize that some of this problem was they had some stolen logs. But to set up a police force with this much power and under these rules is really what I think is irresponsible.

There is another one that would prevent citizens from cutting firewood in lengths longer than 7 feet. I do not know why 7 feet, because 8-foot logs can be used down at the local timber mill or a house or for building timber. They do not want you sneaking in the back way, cutting wood to keep the local timber workers working.

In my part of the country, we have also bears. As I say, if you are going to be a bear, you might as well be a grizzly. And we have lots of those. I was interested the other morning, on a television show, how a man said the grizzly bear is, yes, on the endangered species list and they are almost gone. Tell that to the people who live in northwest Montana. There are a lot of them up there. And, of course, in bear country, we have to be careful. We have all been careful since Lewis and Clark first had one of these giants stand up and come toward them. Now the Forest Service wants us to go one step further and carry heavy bear-proof boxes with us when we go into the forest. These are heavy boxes, and the Forest Service wants us to store them 10 feet up in a tree and 4 feet out from the trunk. I cannot even reach a box that high standing on the back of my own horse. And I am sure that a bear cannot, either. But nonetheless, it is promulgating rules like this that is absolutely getting out of hand in our national forests.

The point is: Whose forest is it, anyway? And in my view, these are rules that are designed to keep the average citizen out of the national forest. These are rules far more fitting for national parks than for our forests. No loud noises? No firearms—including the right to use air rifles or BB guns, starter pistols, or crossbows? What is going on here?

As I said at the start, Federal dollars are tight. The Forest Service ought not be using Federal dollars to even offer such a rule and I propose that these dollars be redirected toward a useful purpose, one that the Forest Service claims never to have enough money for—constructing handicapped access to our National Forest trails.

Mr. President, I encourage my colleagues to join me in introducing this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF FUNDS FOR IMPROVEMENT OF TRAILS.

(a) IN GENERAL.—Notwithstanding any other provision of law, all funds appropriated for or otherwise available to the Department of Agriculture for the purpose of prescribing the regulations referred to in subsection (b) shall be utilized by the Secretary of Agriculture, in lieu of such purpose, for the purpose of improving trails on lands of the National Forest System in order to improve the access of individuals with disabilities to such lands.

(b) COVERED REGULATIONS.—The regulations referred to in subsection (a) are the final regulations on law enforcement activities of the National Forest Service on National Forest System lands the proposed rules for which were published by the Director of the National Forest Service in the Federal Register on February 16, 1994 (59 Fed. Reg. 7880).

By Mr. PELL (by request):

S. 2045. A bill to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the U.S. contribution to the Global Environment Facility, and for other purposes; to the Committee on Foreign Relations.

GLOBAL ENVIRONMENT FACILITY ACT OF 1994

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the U.S. contribution to the Global Environment Facility, and for other purposes.

This proposed legislation has been requested by the Department of the Treasury, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD, together with the letter from the general counsel of the Department of the Treasury, which was received on April 14, 1994.

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

S. 2045

Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286 *et seq.*) is amended by adding at the end the following new section:

"SEC. 62. (a) On behalf of the United States the United States Governor of the Bank is authorized to contribute to the Global Environment Facility $400,000,000, subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated without fiscal year limitation, $400,000,000 for payment by the Secretary of the Treasury.".

DEPARTMENT OF THE TREASURY,
Washington, April 13, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC

DEAR MR. PRESIDENT: I am pleased to transmit herewith a draft bill, "To amend the Bretton Woods Agreements Act to authorize consent to and authorize appropriations for the United States contribution to the Global Environment Facility, and for other purposes."

This legislation is a critical component of United States policy toward global environmental issues. The Global Environmental Facility (GEF) provides funds to developing countries, as well as to countries with economies in transition, for projects that benefit the global environment in the prevention of climate change, ozone depletion, loss of biodiversity and pollution of international waters.

The Climate Change and Biodiversity Conventions have accepted the GEF as the operating entity of their financial mechanisms on an interim basis. As recently restructured, the Conferences of the Parties to these conventions may accept such role for the GEF on a more permanent basis.

The Administration recently reached an agreement with the other GEF participants to restructure the GEF by finalizing an instrument that we believe satisfies the Conventions' criteria. The agreement was accepted by the representatives of 73 countries, in close consultation with the World Bank, the United Nations Development Programme and the United Nations Environment Programme. The GEF will now be serviced by a Secretariat that is functionally independent of the World Bank. It will be directed by a Council of 32 governments, which will decide on the Facility's policies and projects. For projects it finances, the GEF will fully disclose all non-confidential information. Throughout the project cycle, the GEF will consult with major groups and local communities and arrange for their participation in project identification, formulation and execution, as appropriate.

In order to advance our international environmental objectives, the Administration is seeking authorization for the United States to contribute $400 million to the GEF, over a four year period. Combined with an existing appropriation of $30 million for FY 94, the U.S. will contribute just over 21 per cent of the total replenishment. Authority for the $400 million contribution, of course, would also be subject to obtaining the necessary appropriations. Enactment of the proposed authorizing legislation will provide leverage to the United States during GEF Council discussion on the policies, programmatic strategies, and projects of the Facility. Conversely, failure to enact the authorizing legislation would severely undercut U.S. negotiating leverage at the GEF Council.

It would be appreciated if you would lay the draft bill before the Senate. An identical draft bill has been transmitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress, and that enactment would be in accord with the President's program.

Sincerely,

JEAN E. HANSON,
General Counsel.●

By Mr. COCHRAN:

S. 2046. A bill to amend the Public Health Service Act to provide for the establishment by the National Institutes of Health research centers regarding movement disorders, and for other purposes; to the Committee on Labor and Human Resources.

MOVEMENT DISORDERS RESEARCH AMENDMENTS OF 1994

● Mr. COCHRAN. Mr. President, today I am introducing a bill to provide for the establishment of five movement disorders research centers. The funding would come from the National Institute of Neurological Disorders and Stroke within the National Institutes of Health.

Rare disorders have traditionally been neglected by private sector scientists while they focused their research on illnesses with larger populations. My legislation will provide a means by which the National Institute of Neurological Disorders and Stroke [NINDS] can extend its intramural research into the private scientific community.

Movement disorders include debilitating diseases such as Parkinson's disease, Huntington's disease, various forms of dystonia, progressive supranuclear palsy [PSP], and 14 others. Many of the movement disorders cause extreme suffering, impoverished families, and shortened lives.

I encourage senators to join me in working for the establishment of these movement disorders research centers legislation.●

By Mr. CHAFEE:

S. 2047. A bill to amend title 38, United States Code, to provide that receipt of additional disability compensation for dependents not depend upon the waiver of receipt of an equal amount of retired or retirement pay; to the Committee on Veterans' Affairs.

S. 2048. A bill to amend title 38, United States Code, to provide that the reduction by waiver of retired pay due to receipt of compensation or pension not apply to retired pay attributable to pay for extraordinary heroism; to the Committee on Veterans' Affairs.

VETERANS LEGISLATION

● Mr. CHAFEE. Mr. President, today I am introducing two measures to address problems faced by disabled veterans who have earned military retirement. These bills are the product of a number of discussions I have had with my constituent, Mr. Harold Prew, of Pawtucket, RI, who has worked tirelessly to ensure that our retired disabled veterans receive the equitable treatment they deserve.

The first bill I am introducing deals with the matter of dependents' allowances for disabled veterans. Under current law, a veteran who is rated 30 percent or more disabled is entitled to a monthly allowance, based on the number of his dependents, on top of his disability compensation from the VA. However, it the veteran also has earned a military pension from 20 years of service, he must reduce that pension not only by the amount of his disability compensation, but by the amount of his dependents' allowances as well. This legislation would remove dependents' allowances from that equation.

The second measure addresses the little-known issue of "extraordinary heroism pay." Right now, a career servicemember who receives retirement pay can receive a 10-percent bonus in addition to his pension if he is credited with extraordinary heroism in the line of duty. Unfortunately, however, the combined total of retirement and extraordinary heroism pay is subject to offset by any disability compensation that the veteran receives from the VA. Thus, if the servicemember's VA benefits exceed his total retired pay, he receives zero extraordinary heroism pay. At the very least, I believe extraordinary heroism pay should be exempt from offset by VA compensation. This second measure will accomplish that objective.

Finally, Mr. President, I want to touch on the more general issue of concurrent receipt of military retired pay and VA disability compensation. I believe our current policy of prohibiting concurrent receipt is terribly unfair, and look forward to supporting efforts on the floor to change that policy. At this time, I ask unanimous consent to enter into the RECORD two resolutions passed by the Rhode Island House of Representatives and the Rhode Island Senate dealing with this issue.

Again, Mr. President, I want to thank Mr. Prew for bringing these matters to my attention and for helping me draft this legislation. I strongly encourage my colleagues to join me in supporting these measures.

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

HOUSE RESOLUTION

Whereas, Military retirees have earned military retirement pay through reenlistment incentives and use of one's physical capacity during prime youth years for a minimum of twenty years; and

Whereas, The purpose of Veterans Administered Compensation is to assist those who have completed ninety days or more of active duty and have incurred service connected disabilities during that time such as deformities, pains, wounds, injuries, diseases, loss of earning power, or loss of limbs; and

Whereas, Thirty percent or more rated disabilities include an allowance for each de-

pendent and a military retirement for longevity has no dependent allowance; and

Whereas, Military retirees who are combat wounded and their dependents are discriminated against by wavering the retirees earned retirement pay on a dollar for dollar basis with Veterans Compensation only to receive a tax break for the Combat Wounded retiree and dependents; now, therefore, be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby memorializes the Congress of the United States to pass House Bill 303 so that military retirees who are combat wounded can receive earned retirement pay from the Armed Forces and also receive Veterans Administered Compensation including dependent allowances with no offset to military retirement pay, and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.

SENATE RESOLUTIONS

Whereas, Military retirees have earned their military pensions by remaining in the military, through reenlistment, during a minimum of twenty years of the prime of their youth; and

Whereas, if after ninety or more days of active duty, a veteran incurs a service-related disability, such as deformity, pain, wounds, injuries, disease, loss of earning power, or loss of limb, Veterans' Administered Compensation is meant to give them the special assistance they need; and

Whereas, Current Veterans' Administration policy is penalizing the combat-wounded, POW's and their dependents by forcing them to waive receiving a portion of their military pension equivalent to the amount they receive from Veterans' Administered Compensation in order to qualify for the tax break accorded to combat-wounded retirees and POW's; and

Whereas, Veterans' Administered Compensation was meant to provide special benefits for veterans whose impairments render them 30% or more disabled. These benefits include the cost of aid and attendance for some veterans who need it, and an allowance for each of their dependents. In contrast, the ordinary military retirement pension has no provision for dependents' allowance; and

Whereas, The principle of recognizing and compensating veterans who suffered injury or loss of capacity by providing them more funds and services than the uninjured military retiree has been seriously eroded. The current policy bodes ill for injured veterans of the Persian Gulf as well; now, therefore, be it

Resolved, That this Senate of the State of Rhode Island and Providence Plantations hereby respectfully requests the Congress of the United States to pass House Bills 303 and 304 and Senate Bill 190 so that military retirees who are combat-wounded can receive the retirement pay they have earned as well as the Veterans' Administered Benefits including dependents' allowances, aid, and assistance, with no offset in their military retirement pay; and be it further

Resolved, That the secretary of state be and she hereby is authorized and directed to transmit a duly certified copy of this resolution to the Rhode Island delegation in the Congress of the United States.●

By Mr. RIEGLE (for himself and Mr. SARBANES):

S. 2049. A bill to reduce homelessness, reform public housing, expand and preserve affordable housing and homeownership, ensure fair housing for all, empower communities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOUSING CHOICE AND COMMUNITY INVESTMENT ACT OF 1994

Mr. RIEGLE. Mr. President, I am pleased to introduce by request the Clinton administration's proposal to reauthorize our Nation's Federal housing and community development programs. I commend Secretary Cisneros for his leadership in developing strategies to address the problems of our cities and reforming the management of the Department of Housing and Urban Development. The needs of our Nation's cities are great—rates of poverty, unemployment, crime, disinvestment, school dropouts, teen pregnancy, and drug use are high and continue to rise. I commend the administration for its strong commitment to our cities as evidenced by its initiatives to promote empowerment zones and enterprise communities, encourage pension fund investment in affordable housing, build the capacity of grassroots community development organizations through the national community development initiative, and expedite the disposition of HUD-held and owned multifamily property. Congress has acted on all these initiatives and we are currently working on legislation to promote community development financial institutions.

I look forward to working with the Housing Subcommittee and all members of the committee to develop a housing reauthorization bill which will command broad bipartisan support.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, April 26, 1994.

Hon. ALBERT GORE, Jr.,
President of the U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you the "Housing Choice and Community Investment Act of 1994." For the past several months, the department has been working with the Office of Management and Budget, key Congressional Committees and various housing and community development groups on the preparation of this authorization bill.

This legislation would authorize $60 billion over the next two fiscal years for HUD's housing and community development programs. The legislation is focused on the five central priorities governing HUD's community investment agenda: reducing homelessness, turning around public housing, expanding affordable housing, enhancing fair housing, and empowering communities.

This legislation will transform the delivery of homeless assistance programs by consolidating and reorganizing several disparate programs into a single source of funding to support local "continuum of care" systems to assist homeless persons and prevent future homelessness.

The Act would set the foundation for a total remake of our public housing program, ending public housing as we know it. The bill would remove disincentives for public housing residents to seek employment. It would reward entrepreneurial public housing agencies through deregulation and the granting of added powers to experiment and innovate. Anti-crime efforts would be streamlined and linked to other law enforcement efforts.

This bill also proposes to once again make HUD's Federal Housing Administration (FHA) a positive force for enhancing homeownership opportunities. The Act would raise the maximum mortgage limits and give FHA the authority to innovate with new homeownership products as well as enter into risk-sharing arrangements with qualified governmental entities. Additional subsidy tools and increased funding for counselling will also help to foster homeownership opportunities.

HUD's fair housing efforts would be greatly enhanced under this legislation, by advancing the goals of geographic mobility, neighborhood equity, and residential diversity. The bill would expand existing programs that enable HUD, with the aid of nonprofit groups and state and local governments, to enforce our nation's fair housing laws.

Mr. President, the Act would also consolidate and revamp HUD's Section 8 rental assistance programs, permit public housing authorities including Indian housing authorities to sell public and Indian housing to nonprofit organizations to facilitate homeownership opportunities to public housing residents and create a new Choice in Residency program that would give, for the first time, recipients of federal housing aid the counselling they need to make informed choices about where they should live.

The Housing Choice and Community Investment Act would also support HUD's efforts to once again become a positive force in the revitalization of our nation's communities. The legislation would continue the strong support for the Community Development Block Grant program, create a Neighborhood LIFT program to develop neighborhoods' economic infrastructures, create a Community Viability fund to build the capacity of community-based groups, authorize additional funds for the President's empowerment zone initiative, and facilitate the use of Section 108 loan guarantees.

A section-by-section explanation and justification accompanies this letter and more fully sets forth the contents of the bill. I request that the bill be referred to the appropriate committee and urge its early consideration.

The Housing Choice and Community Investment Act of 1994 would affect direct spending; therefore it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's estimate is that the bill's pay-as-you-go impact will be zero.

The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

I am sending a similar letter to the Speaker of the House of Representatives, Thomas S. Foley.

Sincerely,

HENRY CISNEROS,
Secretary.

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, April 26, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I am pleased to transmit to you the "Housing Choice and Community Investment Act of 1994." For the past several months, the department has been working with the Office of Management and Budget, key Congressional Committees and various housing and community development groups on the preparation of this authorization bill.

This legislation would authorize $60 billion over the next two fiscal years for HUD's housing and community development programs. The legislation is focused on the five central priorities governing HUD's community investment agenda: reducing homelessness, turning around public housing, expanding affordable housing, enhancing fair housing, and empowering communities.

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The Office of Management and Budget has advised that the enactment of this legislation would be in accord with the program of the President.

I am sending a similar letter to the President of the United States Senate, Vice President Albert Gore, Jr.

Sincerely,

HENRY CISNEROS,
Secretary.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT EXPLANATION AND JUSTIFICATION FOR THE HOUSING CHOICE AND COMMUNITY INVESTMENT ACT OF 1994

TITLE I—ASSISTANCE FOR THE HOMELESS

Subtitle A—Reorganization of the Stewart B. McKinney Homeless Assistance Act

Overview

Continuum of Care—

Homelessness represents the most extreme breakdown of our housing and social service systems. It afflicts a wide range of populations, which can be broadly classified in two categories: those who suffer from chronic disabilities and those who suffer from crisis poverty. The best means of dealing with both of these categories of homelessness is through ongoing, rather than emergency, programs. Accordingly, the Nation's efforts are best directed toward reinvigorating the mainstream Federal housing and social programs. This would greatly reduce the number of families and individuals that become homeless and increasingly minimize the need for an extensive Federal homeless assistance program. Recent studies have shown that homelessness persists despite the often heroic efforts of thousands of selfless not-for-profit providers, advocates, and others who have dedicated limitless hours and untold energy over the past decade to helping those in need. Unfortunately, their efforts have not received the level of support they deserve from the Federal government. And, those Federal funds that have been made available do not provide localities and providers with the flexibility they need to create a comprehensive system that truly addresses the many dimensions of the problem in a coordinated fashion. As a result, providers often have been compelled to design programs to meet funding requirements rather than actual community needs.

This proposal would reorganize the homeless housing authorities in title IV of the Stewart B. McKinney Homeless Assistance Act, to enable localities to shape a comprehensize, flexible, coordinated system of homeless assistance, called a "continuum of care." This comprehensive system for homeless care inspires cooperation, encourages innovation, and demands coordinated action. It also reflects the comments and insights of literally thousands of not-for-profit providers and localities who participated in 17 HUD-sponsored forums over the past year.

The continuum of care approach is predicated on the understanding that homelessness is not caused merely by a lack of shelter, but involves a variety of underlying, unmet needs—physical, economic, and social. Dealing effectively with the problems of homelessness requires a comprehensive system of housing and necessary services for each stage—from emergency shelter to permanent housing. The continuum of care system and philosophy strives to fulfill those requirements with three major components:

First, there must be an emergency shelter/assessment effort which provides immediate shelter and can identify the needs of an individual or family.

The second component offers transitional housing and necessary social services. Such services include substance abuse treatment, short-term mental health services, and independent living skills.

The third and final component, and one which every homeless individual and family needs, is permanent housing or permanent supportive housing arrangements.

Components of Continuum of Care—

Outreach Intake Assessment,
Emergency Shelter,
Transitional Housing,
Permanent Housing,
Supportive Housing,
Mental Health, Job Training, Independent Living Skills, Substance Abuse, Family Support, Education, and H.I.V.

While not all homeless individuals and families in a community will need to access all three components, unless all three components are coordinated within a community, none will be successful. A strong homeless prevention strategy is also key to the success of the continuum of care.

Moving to a Continuum of Care—

Since 1987, the programs and benefits authorized by the United States Congress under the Stewart B. McKinney Homeless Assistance Act have served as the foundation for Federal homeless assistance to States, cities, and not-for-profit providers. HUD administers more than 60% of the McKinney Act funds through six grant programs—Supportive Housing (SHP), Shelter Plus Care, Section 8 Moderate Rehabilitation for Single Room Occupancy Dwellings (SRO), Emergency Shelter Grants, Safe Havens, and the Rural Homelessness Assistance Program—to address the various symptoms of homelessness.

These grant programs, as currently organized, require providers of housing and services to apply to discrete funding categories for particular needs. In order to receive homeless assistance funding, providers must apply to the Department for each separate McKinney program. Each categorical program has its own appropriation, set of rules, criteria and reporting requirements, which increase process and paperwork and hamper project development and implementation.

Providers consistently report that the competitive process creates at least two major problems:

Because funds are limited and demand is high—the 1993 SHP competition was only able to award 42 grants out of 1,400 requests—the application process wastes time and resources. Time that could be more profitably spent on moving people to permanent housing is currently wasted on navigating a maze of individual programs.

The current competitive method results in funding decisions made on individual applications irrespective of whether they fit into a large coordinated plan. Therefore, there is a virtual inability to use HUD funds to help

establish a comprehensive system in each locality or to rectify imbalances in local delivery.

The current competitive grant structure also ignores a fundamental truth: community-based efforts must be the focus for addressing existing homelessness and preventing future homelessness. The continuum of care provides for such a framework, recognizing that needs of homeless individuals and families in each community—and current resources and systems to meet those needs—are as different and distinct as the people who live within them. While the proposed continuum of care approach can serve as the catalyst to bring the essential components together (e.g. housing, services, assessment facilities), only the community—local government, not-for-profit providers and others, each working together with their own unique expertise and energy—can design a strategy that works best.

Four main principles serve as the foundation for this new Federal approach to administering homeless assistance programs:

The locality knows best—

The homeless population is diverse and its characteristics are unique to a particular city or region. Therefore the locality is best situated to determine homeless needs.

The sources of resources and collaborative relationships vary depending on the locality. Existing relationships and levels of commitment by the governments and not-for-profit organizations vary in strength.

The level of development of services and housing is different from area to area. Only the locality has a complete picture of its existing inventory.

The locality can determine what "gaps" exist in the current system, by assessing the homeless population and the current inventory of housing and services designed to meet needs of homeless persons.

Economic empowerment is the engine that drives revitalization—if homeless individuals and families are going to participate in the overall revitalization of a community, then they must also be prepared to participate in its economic activities—

The goal for every homeless person is self-sufficiency. The continuum of care system must have appropriate job training, childcare, and job placement services for those who need them to move from homelessness to housing and independent living.

The goal for every homeless provider is to place people in permanent situations, thereby allowing them to live independently to the greatest extent possible.

The approach to homelessness must be comprehensive—

As human needs are interconnected, so must be the service delivery system. Only through coordination can all elements of an individual's needs be addressed.

There must be three systematic components: emergency, transitional, and permanent—either all must work together or all will fail.

The vertical, categorical structure of the current homeless programs must be reorganized into a horizontal seamless continuum. Policies and programs should be driven by the comprehensive needs of the community, not by the caprice of separate grant applications and funding cycles.

Empower the field—

Field office staff requires the flexibility and authority to tailor the Federal response to the particular needs of localities.

Placing trust in the experts in the "field," such as specialty service providers, is key to the success of the continuum of care system. We should rely upon those with experience and dedication to do what they do best.

Application of these principles leads to a policy formulation which reorganizes the McKinney Act homeless housing assistance programs from categorical, limited approaches to a "menu" of resources which can be tailored to the specific needs of each locality. For example, rather than Washington targeting resources for the single adult and family populations, for supportive services and permanent housing, the resources would be flexible enough to fit the specific needs of the locality's population and providers.

The McKinney reorganization would reorganize the myriad of existing HUD programs into a single grant to States and localities, with a funding authorization of $1.02 billion for fiscal year 1995. This would give localities added flexibility enabling them to fashion a comprehensive system through a continuum of care which addresses the needs of different homeless populations and which ensures that the various elements of the system (emergency, transitional and permanent housing with supportive services when necessary) are in balance. At the same time, participation by not-for-profit providers and others would be required, both in developing and implementing the plan and program.

In order to enable communities to establish a coordinated approach, local governments, urban counties, and States would be eligible for a formula grant based on need. This would replace the complexity and uncertainty of funding under the existing method of providing funds through competitive programs. Funds would be allocated among States, metropolitan cities, urban counties, Indian tribes, and Insular Areas using the allocation mechanism contained in the Emergency Shelter Grants program (except that 75 percent of the funds after meeting the needs of Indian tribes and Insular Areas) would be allocated to eligible units of general local government, and 25 percent to States). Future amounts would be allocated by any other formula that may subsequently be enacted into law.

However, in the event that the annual appropriation for the new program is less than 50 percent of the amount authorized for any given year, the Secretary would make the funds available to States, units of general local government, Indian tribes, Insular Areas, and private nonprofit organizations on the basis of a competition. This is to assure that the funds would not be too thinly spread among the recipients, which could happen under a formula allocation if the amounts appropriated were substantially lower than the authorization levels proposed herein.

The application process for receipt of all or part of these formula funds would be structured to insure community-based development and maintenance of a continuum of care within each community. In order to receive these formula funds, a local jurisdiction or its designee would be required to submit an application which would contain a homeless plan. The applicant would be required to described in its application the development of a comprehensive system that includes, at a minimum, a system of outreach and assessment, emergency shelter, transitional housing, permanent housing and necessary services. The application must demonstrate linkages between homeless assistance and resources provided under other Federal, State, and local programs that may be used to assist homeless individuals and families, including programs administered by the Secretaries of Housing and Urban Development, Veterans Affairs, Health and Human Services, Education, and Labor, and the Corporation for National Service. The end product of the homeless plan would include an assessment of needs, priorities based upon that assessment, a strategy for addressing these priorities, and an annual plan and budget to direct resources in support of the strategy. This homeless plan would be incorporated into the new consolidated planning submission for CPD's formula grant programs.

A local government would be permitted to designate a public or not-for-profit agency or consortium of agencies to be an applicant on its behalf. In the event that a community or its designee failed to submit an acceptable application or refused to apply for a grant, HUD could designate a public agency or nonprofit to do so, or could conduct the process for determining the recipient(s) of the funds designated for that community. This would insure that the dollars stay in the community where they are needed and used in a manner that supports establishment and maintenance of a continuum of care to help homeless persons.

Partnerships among the locality, not-for-profits, and others would be further enhanced through the requirement that the application result from a broad-based planning effort. Both formula and non-formula recipients would be required to involve not-for-profit groups and other community members in determining the plan, the strategy and the implementation of the program.

This process, the application and the continuum of care system, would be overseen by a community planning board which would sign the locality's homeless assistance application. The planning board would include members representing not-for-profit organizations, homeless or formerly homeless persons, local and state government representatives, business sector representatives, and others. Under this concept, the board would have a decisive role in all of the key elements of the delivery system—including determining who is the applicant; development of the plan; development of the strategy for implementation; and reporting on performance.

In addition to the community-based planning, to ensure that all voices are heard during the application process, each locality and State must provide public notices that funds are available. The public notices and meetings would include all relevant information; for example, that the locality may intend to designate other entities to act on its behalf after consultation with all interested parties, particularly homeless not-for-profit providers.

The plan should be geared toward the creation of a continuum of care that takes into account the diverse needs of the community's homeless individuals and families and that taps into the expertise of local providers, advocates, and others. All of the activities that are now eligible under the existing HUD McKinney homeless programs would be eligible under this new grant program. The Secretary would require that any recipient of assistance use, to the maximum extent practicable, existing providers and other interested organizations in the community to develop the application and the strategy for implementing a comprehensive system for assisting the homeless. In addition, at least 51% of the assistance made available to localities and the States would be required to be available to eligible homeless not-for-profit providers.

Under the current system, match requirements differ based on the program and the

specific activity. This variability in match requirements skews activity choice away from need. Under the reorganization, this variable match would be replaced with a uniform required match of 25% of the amount of the grant in either cash or in-kind contributions. Up to 25% of the required match could come from the proceeds from bond financing validly issued by a State or local government, agency, or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a project assisted under the new program. This would replace the current complex of match requirements under existing programs, permitting the locality and providers to focus on activities based on needs rather than based on the level of match required. In addition, recipients would be required to demonstrate and certify that Federal assistance will not be substituted for State and local resources currently provided for homeless activities, thereby ensuring that the HUD grant is used to move beyond maintenance of the current system toward creation of a continuum of care.

Under the reorganization, States would be required to establish a system for distributing funds in accordance with the needs of small communities, consortia of communities, and rural areas that intend to establish comprehensive homeless assistance systems. However, where there may not be a demonstrated need for the development of a comprehensive system, this requirement may be waived permitting funding for individual homeless assistance activities. The State would undertake the role of administering the program for small cities and unincorporated areas and would be expected to oversee the performance of the participating communities or agencies to which it allocates the funds. State program recipients (small cities or consortia of small cities or approved nonprofits) would be required to establish local boards to plan, develop and implement the local homeless assistance program.

SECTION-BY-SECTION SUMMARY

Short title

Section 101 would provide that the new program may be cited as the "Stewart B. McKinney Homeless Housing Assistance Reorganization Act of 1994".

Findings and purposes

Section 102(a) would state congressional findings that—

(1) more Americans are homeless than at any time since the Great Depression;

(2) homeless populations differ in different parts of the country and require different types of systems of varying sophistication to meet the needs of those populations;

(3) the best approach for addressing this situation is to focus Federal homeless housing assistance on a "continuum of care"— a seamless process which moves the homeless from the street into a system which provides outreach and assessment, emergency shelter, transitional housing, and permanent housing;

(4) the Stewart B. McKinney Homeless Assistance Act created emergency programs to solve specific homeless problems as they were identified, and has evolved into an ad hoc approach of separate programs with separate means of distributing assistance, separate rules, and separate reporting requirements, which tax the resources of the Department of Housing and Urban Development, local governments, and not-for-profit homeless providers;

(5) the competitive process for distributing assistance under these programs—

(A) restricts the flexibility of communities to fashion homeless systems that meet the needs of homeless persons in their areas;

(B) does not ensure that Federal resources are targeted where the need is;

(C) results in unpredictable funding streams which hinder communities' ability to plan, develop, and implement comprehensive "continuum of care" systems to assist homeless individuals and families; and

(D) impedes the integration and coordination of the resources—Federal, private, not-for-profit, and local government—available within a community; and

(6) the current array of programs does not ensure that a community will have the tools to create a "continuum of care" to address its homeless needs.

Subsection (b) would state that the purposes of the new program are to—

(1) reorganize the McKinney Act homeless housing assistance authorities, to assist States and localities to use them more efficiently and effectively through a comprehensive system involving a "continuum of care" approach designed to meet the shelter, service, and permanent housing needs of the Nation's homeless individuals and families;

(2) simplify and make more flexible the provision of Federal homeless assistance;

(3) encourage the cooperation and participation of the States and units of general local government, along with private nonprofit organizations, in planning and implementing comprehensive homeless assistance programs that are designed to meet the array of service and shelter needs of the homeless population toward the ultimate goal of assisting individuals and families to move to permanent housing and self-sufficiency with supportive services, if necessary, as quickly as possible;

(4) maximize a community's ability to implement a "continuum of care," by working with local groups and not-for-profit providers;

(5) assure private non-profit organizations and community groups that HUD will administer the grant if States or units of general local government are reluctant to participate in the program established by this subtitle;

(6) make more efficient and equitable the manner in which the Department of Housing and Urban Development distributes Federal homeless assistance, and to reduce the burden on the Department's staff in managing numerous competitions for grants so that its limited staff can focus on providing technical support, analysis, and evaluation to better enable States, units of general local government, and non-profit providers to use Federal homeless assistance;

(7) reduce the costs to States, units of general local government, and private non-profit organizations in applying for and using the assistance; and

(8) begin the process of moving toward the goal of meeting the needs of most of the Nation's homeless population through the mainstream programs as the Federal resources supporting these programs become available, in accordance with the Nation's Plan to End Homelessness.

Definitions

Section 103 contains definitions of terms used in the new program:

(1) The term "Act" would mean the Stewart B. McKinney Homeless Assistance Act.

(2) The term "applicant" would mean a grantee submitting an application under section 105.

(3) The term "allocation unit of general local government" would mean a metropolitan city and an urban county.

(4) The term "grantee" would mean—

(A) an allocation unit of general local government, Indian tribe, or Insular Area that administers a grant or designates a public agency or private non-profit organization (or a consortium of such organizations) to administer grant amounts instead of the jurisdiction;

(B) a public agency or private non-profit organization (or a consortium of such organizations) designated by the Secretary to administer grant amounts instead of an allocation unit of general local government, Indian tribe, or Insular Area;

(C) an entity receiving grant amounts from the Secretary where the Secretary administers the grant of an allocation unit of general local government;

(D) a State administering a grant;

(E) a unit of general local government receiving a grant from the Secretary when HUD administers the State program; and

(F) a private non-profit organization receiving a grant from the Secretary where HUD administers grant amounts for individual State recipients.

(5) The term "homeless individual" has the meaning given the term in section 103 of the Act.

(6) The term "homeless family" would mean a group of one or more related individuals who are homeless individuals.

(7) the term "Indian tribe" would mean any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered as eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, before the repeal of such chapter.

(8) The term "Insular Area" would mean the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

(9) The term "metropolitan city" has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974.

(10) The term "private nonprofit organization" would mean an organization—

(A) no part of the net earnings of which insures to the benefit of any member, founder, contributor, or individual;

(B) that has a voluntary board;

(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

(D) that practices nondiscrimination in the provision of assistance.

(11) The term "recipient" would mean a grantee (other than a State distributing grant amounts to State recipients) and a State recipient.

(12) The term "Secretary" would mean the Secretary of Housing and Urban Development.

(13) The term "State" would mean each of the several States, and the Commonwealth of Puerto Rico.

(14) The term "State recipient" would mean—

(A) a unit of general local government within the State (other than an allocation unit of general local government) that receives grant amounts from the State under section 108(b); and

(B) a private non-profit organization receiving amounts from the State where the State administers grant amounts for individual State recipients.

(15) The term "unit of general local government" would mean—

(A) a city, town, township, county, parish, village, or other general purpose political subdivision of a State;

(B) the District of Columbia; and

(C) any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

The term would include a consortium of geographically contiguous units of general local government if the Secretary determines that the consortium—

(i) has sufficient authority and administrative capability to carry out the purposes of the new program on behalf of its member jurisdictions; and

(ii) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of problems of homeless individuals or families within the State or States.

(16) The term "urban county" has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974.

Authorizations

Section 104(a) would authorize the Secretary to make grants to grantees to carry out activities to assist homeless individuals and families in support of comprehensive homeless assistance systems.

Subsection (b) would authorize the appropriation of $1,020,000,000 for fiscal year 1995, and such sum as may be necessary for each of fiscal years 1996 and 1997, for the new program. Any amounts appropriated would remain available until expended.

Subsection (c) would require that the Secretary distribute amounts appropriated for the program to grantees in accordance with the provisions of the new program. If, however, the amounts appropriated under subsection (b) for any fiscal year are less than 50% of the amount authorized to be appropriated under that subsection for that year, the Secretary would be required to distribute the amounts appropriated to states, units of general local government, Indian tribes, Insular Areas, and private nonprofit organizations on the basis of a competition. Competitive grants would be subject to the provisions of the new program, except those provisions that the Secretary determines are inconsistent with the purposes of the competitive program. The Secretary could establish such additional or alternative requirements for grants under the competitive program, which must include requirements for applying for, and criteria for awarding, the grants.

The criteria for awarding competitive grants would include—

(1) the extent to which there is a need for assistance for homeless individuals and families in the jurisdiction;

(2) the extent to which the proposed activities further the establishment and maintenance of the comprehensive homeless assistance system referred to in section 105(b)(1)(C);

(3) the extent to which private non-profit organizations providing assistance to homeless individuals and families in the jurisdiction have been, and will be, included in planning for the receipt of assistance under this subtitle, the development of the application under section 105, and the execution of the proposed activities; and

(4) the extent to which homeless individuals and families will proceed with appropriate expedition through the comprehensive homeless assistance system and into permanent housing.

The Secretary would be authorized to set aside amounts for grants under the competitive program for Indian tribes and Insular Areas.

Application

Section 105(a) would require each applicant to submit an application in such form and in accordance with such procedures as the Secretary shall establish. Subsection (b) would specify that the application at a minimum:

(1) on the basis of information provided in the current comprehensive affordable housing strategy for the appropriate jurisdiction under section 105 of the Cranston-Gonzalez National Affordable Housing Act, or such other plan as the Secretary may prescribe, set forth for the jurisdiction—

(A) a detailed description of the current population of homeless individuals and families;

(B) the current facilities and services designed to assist that population; and

(C) the comprehensive homeless assistance system to be established and maintained within the jurisdiction (a "continuum of care"), which must include at a minimum—

(i) a system of outreach and assessment for determining whether an individual or family is homeless, needs assistance to avoid becoming homeless, or needs other assistance, and for ensuring that individuals and families that are so identified receive appropriate housing and supportive services (which may include services with respect to health, mental health, substance abuse, family support, education, and child care, and services directed toward obtaining appropriate income support, including employment training);

(ii) the availability of emergency shelters with appropriate supportive services to ensure that homeless individuals and families for which such housing is appropriate receive adequate shelter, including during the period in which the assessment referred to above is being performed;

(iii) the availability of transitional housing with appropriate supportive services to ensure that homeless individuals and families for which such housing is appropriate are prepared for increased responsibility and permanent housing, or permanent supportive housing, after the transition period;

(iv) the availability of permanent housing, or permanent supportive housing, adequate to meet the long-term housing needs of all homeless individuals and families; and

(v) linkages between assistance provided under the new program and assistance provided under other Federal, State, and local programs that may be used to assist homeless individuals and families, such as assistance under the Public and Indian Housing and Section 8 programs under the United States Housing Act of 1937, the Home Investment Partnerships Act, and the Community Development Block Grant program under title I of the Housing and Community Development Act of 1974; programs administered by the Secretary of Labor; health, social service, and income support services; programs designed to assist homeless veterans; and adult education, employment training, and education for homeless children and youth; and national service.

(2) provide an assessment of what is required to establish and maintain the comprehensive system;

(3) set forth a multi-year strategy for establishing and maintaining the system, including appropriate timetables, milestones, and budget estimates for accomplishing each element of the strategy;

(4) set forth a one-year action plan, identifying all activities to be carried out with assistance under this subtitle and demonstrating how these activities will further the strategy referred to above;

(5) describe the means the applicant (other than a State distributing grant amounts to State recipients) will use to distribute grant amounts to subgrantees, including whether the amounts will be awarded on a competitive or non-competitive basis;

(6) demonstrate that the local board referred to in section 109(b) has signed the application;

(7) contain certifications or other such forms of proof of commitments of financial and other resources from each public agency or private non-profit organization that has a role in establishing and maintaining the comprehensive homeless assistance system;

(8) contain assurances satisfactory to the Secretary that activities carried out under section 106 will meet the requirements of the Act, as provided in section 106(b);

(9) in the case States distributing grant amounts to State recipients, describe the method of distribution;

(10) except for grant amounts that States will distribute to State recipients, contain a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government;

(11) contain a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

(12) contain a certification that the applicant will comply with the requirements of the new program and other applicable laws.

Eligible activities

Section 106(a) would authorize recipients to carry out only the following activities under the new program—

(1) activities eligible for assistance under the following provisions of the Act: emergency shelters under subtitle B of title IV; transitional housing under subtitle C of title IV; safe havens under subtitle D of title IV; single room occupancy dwellings under section 441; shelter plus care under subtitle F of title IV; and rural homeless housing assistance under subtitle G of title IV;

(2) permanent housing meeting such requirements as the Secretary prescribes;

(3) for the first year in which a recipient receives grant amounts under the new program, administrative expenses in connection with planning the development of, and establishing, its program under the new authority, and in subsequent years, defraying the cost of administering the program; in all years, defraying the cost of constituting and operating the local board referred to in section 109(b); except that not more than 5% of any amounts provided to a recipient under the new program for a fiscal year may be used for these administrative expenses; and

(4) building the capacity of private nonprofit organizations to participate in the comprehensive homeless assistance system of the recipient, except that not more than 2% of any amounts provided to a recipient under the new program for a fiscal year may be used for capacity building activities.

Subsection (b) would require that activities assisted under the new program comply

with all applicable requirements of the Act, except those that the Secretary determines are inconsistent with the provisions or purposes of the new program.

Subsection (c) would require each recipient to ensure that contributions totaling not less than 25% of the grant amounts made available to the recipient for any fiscal year under the new program are provided from non-Federal sources, as defined by the Secretary, to carry out the recipient's homeless assistance program. Each recipient shall certify to the Secretary that it has complied with this section, and shall include with the certification a description of the sources and amounts of the matching funds.

A recipient could request that the Secretary reduce or waive this matching requirement. The request would be required to be in a form and manner prescribed by the Secretary, and must demonstrate that the recipient lacks the finances and other resources to meet the requirement. The Secretary may grant the request, if the Secretary determines that imposition of the match would create a significant hardship for the recipient and would thwart the overall purpose of the homeless assistance program of the recipient.

In calculating the amount of the required match, a recipient may include any funds derived from a non-Federal source; the value of any lease on a building; any salary paid to staff to carry out the program of the recipient; the value of the time and services contributed by volunteers, at a rate determined by the Secretary; and the proceeds from bond financing validly issued by a State or local government, agency, or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a project assisted under this subtitle, but not more than 25% of the required contribution may be derived from this source.

Subsection (d) would provide that no assistance received under the new program (or any State or local government funds used to supplement such assistance) may be used to replace other funds previously used, or designated for use, by the State, unit of general local government, Indian tribe, or Insular Area to assist homeless individuals and families.

Subsection (e) would require that each recipient make available at least 51% of the grant amounts it receives for any fiscal year to private non-profit organizations that provide assistance to homeless individuals and families to carry out activities under the new program. These organizations would have to meet such minimum standards as the Secretary deems appropriate.

Subsection (f) would provide that an allocation unit of general local government, Indian tribe, or Insular Area, or a State recipient, that designates a public agency or a private non-profit organization, or a State recipient that enters into an agreement with a State to administer its program, must make available, to defray the administrative expenses of the designee or the State, such sums as the Secretary deems appropriate from amounts eligible for administrative expenses under subsection (a)(2).

Allocation and distribution of funds

Section 107(a) would require that, for each fiscal year, the Secretary allocate assistance under the new program to Insular Areas in accordance with an allocation formula established by the Secretary.

For each fiscal year, of the amounts that remain after amounts are reserved for Insular Areas, the Secretary shall allocate assistance according to the formula described below or such other formula as may hereafter be enacted into law.

Initially, amounts would be allocated for allocation units of general local government and States, and for Indian tribes, according to the formula for allocating assistance under the Emergency Shelter Grants program. Specifically, the amounts would be distributed in a manner that ensures that the percentage of the total amount available under the new program for any fiscal year that is allocated for any State or allocation unit of general local government, or for Indian tribes, is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated for such State or allocation unit of general local government, or for Indian tribes.

Subsection (b) would provide that if under the allocation provisions applicable under the new program, any allocation unit of general local government would receive a grant of less than 0.05% of the amounts appropriated to carry out this subtitle for any fiscal year, such amount shall instead be reallocated to the State for use under section 108(b), except that any city that is located in the State that does not have counties as local governments; that has a population greater than 40,000, but less than 50,000, as used in determining the fiscal year 1987 community development block grant program allocation; and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987 would be eligible to receive its allocation directly.

Unlike the ESG program, 75 percent of amounts available after funding Indian tribes and Insular Areas would be allocated for units of general local government and 25 percent for States. This would be accomplished by increasing the amounts for units of general local government on a pro rata basis until the aggregate of such amounts equals 75 percent of the amounts appropriated for the new program for each year, and by decreasing the amounts for States on a pro rata basis until the aggregate of such amounts equals 25 percent of the amounts appropriated for each year.

The formula amount determined for an allocation unit of general local government or a State, above, is the maximum amount that the jurisdiction is eligible to receive. The Secretary may provide a grant for a State or for an allocation unit of general local government for an amount less than the formula amount, if the Secretary determines that such action is appropriate based upon review of the application under section 105 or as a result of the annual performance review and audit under section 110.

Subsection (c) would provide that any amounts that a State or an allocation unit of general local government is eligible to receive under subsection (b) that are not received for use in the jurisdiction, as provided by section 108(a) and (b), or that become available as a result of actions under section 110(b), would be added to amounts available for allocation under section 107 for the succeeding fiscal year.

Administration of Program

Section 108(a) would provide that except as provided below, an allocation unit of general local government, Indian tribe, or Insular Area must administer grant amounts received under section 107 for any fiscal year.

An allocation unit of general local government, Indian tribe, or Insular Area may elect for any fiscal year to designate a public agency or a private non-profit organization (or a consortium of such organizations) to administer grant amounts under section 107 instead of the jurisdiction.

The Secretary would prescribe the manner and time for making this election, and would establish criteria for the approval of agencies and organizations, which would include demonstrated experience of the entity in providing assistance to homeless individuals and families in the jurisdiction.

The allocation unit of general local government, Indian tribe, or Insular Area would remain both the grantee and the recipient for purposes of the new program. The Secretary may, at the request of the jurisdiction, provide grant amounts directly to the designated agency or organization.

If an allocation unit of general local government, Indian tribe, or Insular Area, or (if appropriate) a public agency or private non-profit organization designated by the jurisdiction, above, does not receive a grant for any fiscal year because of failure to meet the application requirements of section 105, the Secretary would be authorized to designate an agency or organization to administer the grant. Any designated agency or organization would be both the grantee and recipient for purposes of the new program.

If for any fiscal year the Secretary determines that amounts allocated for an allocation unit of general local government will not be used in the jurisdiction, as provided by the preceding provisions of this subsection, the Secretary could administer the amounts instead of the jurisdiction.

Subsection (b) would require States to elect either to administer grant amounts received under section 107 or to have the Secretary administer these amounts instead of the State. If a State elects to administer grant amounts under subparagraph (A), the election would be permanent and final.

Of amounts provided to a State, the State—

(1) may use up to 15% to carry out its own homeless assistance program, except that these amounts may only be used for eligible activities under section 106(a)(1) for which States are eligible recipients under the Act; and

(2) must distribute the remaining amounts to State recipients.

Grants to States may only be used to carry out activities in areas of the State outside allocation units of general local government.

A State distributing amounts to State recipients under paragraph (1)(A) shall, for each fiscal year, afford the recipient the options of administering the grant amounts on its own behalf; designating a public agency or a private non-profit organization to administer the grant amounts instead of the jurisdiction; or entering into an agreement with the State, in consultation with private non-profit organizations providing assistance to homeless individuals and families in the jurisdiction, under which the State will administer the grant amounts instead of the jurisdiction. These options would be exercised at such time and in accordance with such criteria as the Secretary may prescribe.

A State recipient designating an agency or organization, or entering into an agreement with the State, would remain the recipient for purposes of this subtitle. The State may, at the request of the State recipient, provide grant amounts directly to a designated agency or organization.

The State must distribute amounts to State recipients (or to designated agencies or organizations, as appropriate) on the basis of an application containing such information as the Secretary may prescribe. Each

application must evidence an intent to establish a comprehensive homeless assistance systems, except that the State may waive this requirement with respect to one or more proposed activities, where the State determines that the activities are necessary to meet the needs of homeless individuals and families within the jurisdiction and a comprehensive homeless assistance system is not necessary, due to the nature and extent of homelessness in the jurisdiction.

In selecting State recipients, the State must give preference to applications that demonstrate higher relative levels of homeless need and fiscal distress.

Each State distributing grant amounts to State recipients may retain amounts not to exceed 5% of the amount to be used for this purpose to defray the cost of carrying out its responsibilities under the new program.

If in any fiscal year a State distributes grant amounts to a State recipient, but the recipient fails to receive the amounts, the Secretary or the State, as the Secretary may provide, may distribute the amounts to private non-profit organizations in the jurisdiction. If the Secretary distributes the amounts, the Secretary would deduct the amounts distributed from the grant provided to the State for that fiscal year.

If a State elects to have the Secretary administer its grant amounts as described above, the Secretary is authorized to distribute grant amounts to State recipients instead of the State, in accordance with requirements and procedures prescribed by the Secretary. The Secretary would establish criteria for selecting recipients and making awards under this paragraph, which would include giving preference to applications that demonstrate higher relative levels of homeless need and fiscal distress.

Citizen participation

Section 109(a) would require each recipient to ensure that citizens, and appropriate private non-profit organizations and other interested groups and entities, participate fully in the development and carrying out of the program authorized under the new program. The Secretary would be required to prescribe requirements to carry out this section, which would include requirements applicable to the local boards referred to in subsection (b) and the citizen participation provisions of subsection (c), and the timing of, and sequence for, carrying out the requirements of those subsections.

Subsection (b) would require each recipient to establish and support a local board, which would assist the recipient in determining whether the grant should be administered by the recipient, a public agency or private nonprofit organization, or the State or the Secretary, as appropriate; developing the application under section 105; overseeing the activities carried out with assistance under the new program; and evaluating the performance of the recipient in carrying out these activities.

The local board would be required to consist of—

(1) at least one member representing each of the following groups: homeless individuals and families; homeless advocates; individuals and entities providing assistance to homeless individuals and families; the business community; and neighborhood advocates;

(2) in the case of a recipient that is a State, one member representing the State agency or instrumentality dealing with mental health; and

(3) not more than one member representing the recipient.

At least 51 percent of the membership of the board must have been nominated by individuals and entities other than a governmental jurisdiction.

No applicant may submit to the Secretary an application under section 105, and no grantee may submit to the Secretary a performance report under subsection 110(a), unless the board signs the document. No State recipient may submit an application or a performance to a State, unless the Board signs the document.

If the board or other members of the community believe that the process for constituting or operating the board is unfair, they may ask the Secretary to review the matter. The Secretary would attempt to resolve the problem and where the Secretary finds that the process is unfair, the Secretary may disapprove an application under section 105 or refuse to accept a performance report under section 110(a).

The Secretary would be required to prescribe standards governing potential conflicts of interest under which members of local boards may participate in activities carried out under the new program.

Subsection (c) would require each recipient to—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of activities that may be undertaken with the assistance;

(2) publish the proposed application in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on it;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the recipient may have received during the preceding 5 years.

Before submitting any performance report under section 110(a) or substantial amendment to an application under section 105, a recipient must provide citizens with reasonable notice of, and opportunity to comment on, such performance report or application before its submission.

A recipient must consider any comments or views of citizens in preparing a final application, amendment to an application or performance report for submission. A summary of such comments or views must be attached when an application, amendment to an application or performance report is submitted. The submitted application, amendment, or report must be made available to the public.

The Secretary would establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to applications or performance reports under the new program.

Subsection (d) would require the Secretary to prescribe citizen participation requirements comparable (to the extent appropriate) to those contained in the preceding subsections for States distributing grant amounts to State recipients and certain instances in which the Secretary is administering grant amounts. The following provisions of law do not apply with respect to the actions of the Secretary in establishing citizen participation requirements: the Federal Advisory Committee Act and section 103 of the Department of Housing and Urban Development Reform Act of 1989. The Secretary would be required to establish appropriate standards to ensure the integrity of the process for awarding assistance.

Reports, reviews, and audits

Section 110(a) would require each grantee to submit to the Secretary a performance and evaluation report concerning the use of funds made available under the new program. The report would be submitted at such time and contain such information as the Secretary prescribes, and must be made available to the local boards referred to in section 109(b) and to citizens in the jurisdiction of the grantee in sufficient time to permit the board and the citizens to comment on the report before its submission. Each grantee performance report must be signed by the local board.

Subsection (b) would require the Secretary, at least on an annual basis, to make such reviews and audits as may be necessary or appropriate to determine—

(1) in the case of a grantee (other than a grantee referred to in paragraph (2)), whether the grantee—

(A) has carried out its activities in a timely manner;

(B) has made progress toward establishing and maintaining the comprehensive homeless assistance system ("continuum of care") in conformity with its application under this subtitle;

(C) has carried out the activities and its certifications in accordance with the requirements of this subtitle and with other applicable laws; and

(D) has a continuing capacity to carry out the activities in a timely manner; and

(2) in the case of States distributing grant amounts to State recipients, whether the State—

(A) has distributed amounts to the recipients in a timely manner and in conformance with the method of distribution described in its application;

(B) has carried out its activities and certifications in compliance with the requirements of this subtitle and other applicable laws; and

(C) has made such reviews and audits of the recipients as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria contained in paragraph (1).

The Secretary may make appropriate adjustments in the amount of grants in accordance with the Secretary's findings. With respect to assistance made available for State recipients, the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under the new program may not be recaptured or deducted from future assistance to such recipients.

Nondiscrimination in programs and activities

Section 111(a) would provide that no person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under the new program. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual, as provided in section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

Subsection (b) would provide that no grant may be made to an Indian tribe under the new program unless the applicant provides satisfactory assurances that its program will be conducted and administered in conformity with title II of Public Law 90-284. The Secretary may waive, in connection with grants to Indian tribes, the provisions of subsection (a).

Nothing in the new program relating to discrimination on the basis of race would apply to the provision of assistance to the Hawaiian Home Lands.

Consultation

Section 112 would provide that in carrying out the provisions of the new program, including the issuance of regulations, the Secretary shall consult with other Federal departments and agencies administering programs affecting homeless individuals and families.

Records, reports, and audits

Section 113(a) would require any entity receiving grant amounts under the new program to keep such records as may be reasonably necessary to disclose the amounts and the disposition of the grant amounts and to ensure compliance with the requirements of this subtitle.

Subsections (b) and (c) would give the Secretary and the Comptroller General access for the purpose of audit and examination to any books, documents, papers, and records of any entity receiving grant amounts under the new program that are pertinent to grant amounts received in connection with, and the requirements of, the new program.

Reports to Congress

Section 114 would require the Secretary to submit a report to the Congress annually, summarizing the activities carried out under the new program and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report would be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1995, the report would be submitted not later than 6 months after the end of the fiscal year).

Innovative Homeless Program

Section 115(a) would authorize the appropriation of $100 million for fiscal year 1995 and such sums as may be necessary for fiscal year 1996 for the comprehensive homeless initiative under section 2(c) of the HUD Demonstration Act of 1993.

Subtitle B—Emergency Food and Shelter

Transfer of the Emergency Food and Shelter Program from FEMA to HUD

Section 121 would amend the Stewart B. McKinney Homeless Assistance Act to transfer the Emergency Food and Shelter Program from the Federal Emergency Management Agency (FEMA) to HUD. Currently, the Emergency Food and Shelter program is administered by FEMA and is implemented through a National Board consisting of the Director of FEMA as chairperson and six other members nominated by the United Way of America; the Salvation Army; the National Council of Churches of Christ in the U.S.A., Catholic Charities, U.S.A.; the Council of Jewish Federations, Inc.; and the American Red Cross.

Under the proposed legislation, the Secretary of HUD would replace the Director of FEMA as chairperson of the Board. The Secretary of HUD would appoint members to vacancies on the National Board.

The transfer of this program to HUD would improve the coordination and delivery of homeless resources, given HUD's lead responsibility for housing and shelter.

TITLE II—PUBLIC AND INDIAN HOUSING; CROSS-CUTTING AUTHORIZATIONS

Direct loans for modernization and replacement

Section 201 would establish a direct loan program for modernization of public housing and provision of replacement housing for units that cannot be made viable. By making available substantial amounts of capital, the program would make it possible for PHAs and their local units of government to plan and execute actions to eliminate seriously deteriorated public housing, either by major rehabilitation or by replacing existing projects with new housing, including new, mixed-income developments in which public housing tenants would comprise only a portion of the tenancy of the project.

The loan program would provide participating housing agencies with an efficient source of financing for their modernization activity, so that PHAs can address current needs now, rather than waiting until sufficient CGP funds are available sometime in the future. The Department is proposing an amendment to section 14, in another legislative proposal, so that modernization funds can be used for replacement housing. That proposal, in combination with this proposal for a modernization direct loan program, would allow PHAs to use loan proceeds to replace deteriorated and uninhabitable projects. The availability of capital for development will make it possible for PHAs to leverage private capital in order to construct mixed-income projects.

Only CGP agencies with an acceptable rate of obligation of modernization funds would be eligible, unless the agency indicated its willingness and intent to administer the borrowed funds through contract management. The loans would be repaid with the annual formula allocations of modernization funds under the Comprehensive Grant program and other Federal and non-Federal financial resources. Cities or States would be co-borrowers with the PHAs and would pledge their funds as collateral, in case of default, for some portion of the loan. These city funds could be future allocations of CDBG, tax revenues, or other income sources, at the discretion of the city. In the event of default, the State or unit of general local government would pay a share of the remaining unpaid debt service proportional to the original pledge.

Any activities eligible under the Comprehensive Grant program would be eligible except that, unlike the CGP, activities to upgrade the management and operation of public housing projects would not be eligible. In another legislative proposal, public housing development and section 8 project-based and tenant-based assistance would become eligible uses for modernization funds when the units are provided as replacement housing under Section 18.

The maximum aggregate amount of loans that HUD could make for any PHA would be limited to five times the PHA's latest CGP allocation amount, or such lower limit as the Secretary established by regulation. In addition, in determining the approvable size of the loan, HUD could take into consideration (a) the ability of the PHA to use the funds effectively, directly or through contract management, and (b) the adequacy of remaining future allocations in providing repairs, replacements and improvements which will be needed as a result of usage and depreciation of existing projects over the borrowing period. If, at any time during a fiscal year, HUD found that 50% of the loan authority for that fiscal year had been committed or applied for, HUD could limit any individual loan. The maximum term of the loan would be 10 years.

The authorization for loans under the program would be $2,000,000,000 in FY 1995 and the same amount in FY 1996. A premium large enough to offset the Federal government's risk would be charged against the PHA's Comprehensive Grant in the year the loan is made.

Any technical assistance funds set aside under section 14 could be used for training and technical assistance in support of this program.

PHAs in the Comprehensive Grant program typically have major rehabilitation needs which far exceed their annual allocation of funds. Most of these needs are a part of a multi-billion dollar backlog which existed at the beginning of the CGP in FY 1992. Under the present system, it will be many years before sufficient funds are available to address these needs. In the meantime, projects which could be providing housing sit empty, and some public housing residents are living in severely deteriorated housing.

If PHAs were able to borrow against their anticipated annual allocation and other anticipated income, they would be able to speed up the elimination of the backlog of modernization needs. The result would be that vacant units could be made habitable and occupied sooner, and current residents would have better living conditions.

In addition, in some PHAs, the most efficient use of funds is not to rehabilitate existing projects but to demolish them and build replacement units. Often, through this process, far better housing can be provided in better locations at the same cost. If large amounts of capital are made available for development in this way, it will be possible to leverage private investment in housing to construct mixed-income developments, ending the segregation of public housing residents in very low-income areas.

Use of modernization funds for replacement housing

Section 202 would amend section 14 of the 1937 Act to authorize PHAs to use modernization funds for the development of additional public housing under the 1937 Act, subject to the requirements applicable to such development, and for 15-year project-based assistance and 5-year tenant-based assistance, in accordance with section 8, to provide replacement housing as required by section 18. Section 18 requires replacement housing in certain circumstances in connection with the demolition or disposition of public housing. This proposal would not modify the section 18 requirements for replacement housing or the types of housing that may be counted as replacement housing under those requirements.

Current law governing the modernization program inhibits the ability of PHAs (including Indian housing authorities) to provide housing solutions that are tailored to local needs. The public housing modernization program only permits PHAs to rehabilitate existing units, even under conditions where demolition and replacement would be more economical and socially preferable. This proposal would provide PHAs with the flexibility to determine whether replacement, rather than rehabilitation, or 15-year project-based or 5-year tenant-based section 8 assistance, would be a preferable option under the public housing modernization program.

Facilitate use of public-private partnerships in modernizing public housing

Section 203 would amend the requirement that Section 14 funds can be used only for low-rent housing projects which are owned by public housing agencies and permit the Secretary to specify other forms of control of the property by the PHA, as an alternative to ownership.

For example, the PHA could own the land on which a project is located and provide a ground lease to the owner of the building or be the mortgagee for the property.

This change would facilitate private investment in the modernization of public housing projects by permitting use of low-income tax credits by the private investor. In this manner, the amount of funds available for modernization of public housing could be increased.

Public housing is currently extremely limited in the methods of financing that may be used for modernization. This change would open opportunities for private-public partnerships in improving the Nation's public housing.

Modification of the Early Childhood Development Program

Section 204 would amend the requirements for the Early Childhood Development program for residents of public housing to permit the Secretary to make grants for the expansion or refunding of pre-existing child care centers. In addition, this proposal would permit homeless families with children to use the early childhood development services funded under the program and would require the Secretary, in providing grants under the program, to take into account the proximity of the proposed site to facilities for the homeless. Finally, the proposal would authorize $35 million for the program FY 1995 and $35 million for FY 1996.

Allowing Child Care grants to be made available to expand or refund existing centers for public housing residents would make the early childhood development program more equitable and efficient. Expanded centers would provide qualified families that would otherwise be denied access to existing centers that are filled to capacity an opportunity to share the same services. Also, expansion would enhance the capacity of existing centers that are straining to serve a large number of families with children. The ability to refund existing centers under this program would help the economic stability of centers that need additional funding.

Expansion of the program to include assistance for homeless families would provide them the opportunity to share the same services that are available for public housing residents. Access to these facilities would otherwise not be available for homeless families.

Entrepreneurial PHAs and RMCs

Section 205 would authorize the Entrepreneurial PHAs and RMCs demonstration. Under this demonstration, the Secretary would be permitted to approve requests for waiver of statutory requirements to permit selected PHAs (including Indian housing authorities) or RMCs (or some of each) to set their own policies for the operation, maintenance, management, and development (including modernization) of any of their projects. In addition, HUD could specify alternative requirements in connection with the demonstration. Regulatory and contract waivers are not addressed in this proposal, because current regulations already contain adequate and explicit waiver authority. This proposal would permit up to 25 demonstrations conducted by the total of 25 PHAs or RMCs (or a combination of both). Demonstrations could be approved for a period of up to five years.

While these agencies and RMCs would be bound by State or local law, they would not be bound by the requirements of the U.S. Housing Act of 1937, except for the fundamental requirement limiting occupancy to low-income families as defined in section 3, and the requirements of section 18 of the 1937 Act requiring replacement units that apply in the case of demolition or disposition (except that the limitation on the use of tenant-based assistance to applications proposing demolition or disposition of 200 or more units may be waived). In addition, the Secretary could waive any other statutory requirements applicable to the project, or specify alternative requirements, except for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and statutory requirements pertaining to fair housing and equal opportunity, the environment, or labor standards.

The Secretary could select among applicant PHAs and RMCs in a manner determined to be appropriate, taking into account such factors as (1) the need for a range of project sizes, (2) the need for a range of types of public housing agencies and RMC's, (3) the capability of the PHA to carry out the demonstration, and (4) the potential effects and benefits the variations proposed by the agency or RMC could have on the public housing program if the variations were adopted for the whole program.

Each demonstration would have to: (1) be approved personally by the Secretary; (2) taken as a whole over the life of the demonstration, not result in higher costs to the Federal government; (3) be consistent with the overall purposes of the public housing program; (4) be evaluated by an independent party; and (5) be consistent with the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the National Environmental Policy Act of 1969.

The Secretary would be authorized to establish any requirements determined to be necessary for the conduct of these demonstrations.

The PHA or RMC for each demonstration site would be required to submit an annual progress report. In addition, within one year of the conclusion of each demonstration, the Secretary would be required to submit to Congress a report describing the results of the demonstration and any recommendations for legislation.

One million dollars would be authorized for the evaluation of the demonstrations under this proposal. An independent evaluation would be an important part of the demonstrations and would measure the effects of permitting agencies and RMCs to waive certain Federal requirements and set overall policy. This authorization is essential to HUD's and the Congress' ability to take the lessons learned from these demonstrations and put them to practical use by revising current programs or creating new ones.

Entrepreneurial PHA demonstrations would promote innovation in addressing public housing issues, allowing PHAs to identify statutory impediments to achieving public housing objectives and their plan to reinvent their public housing program without the constraints of those impediments.

One of the criticisms of HUD's public and Indian housing programs is that they are sometimes too prescriptive or rigid to fit the needs or circumstances of many local community situations. These demonstrations will encourage local decision making. These demonstrations will provide HUD with valuable first-hand experience on what truly reinvented public housing programs may be.

Policies such as those relating to occupancy, development and modernization could be waived by the Secretary upon a specific request from an agency or RMC participating in the demonstration. PHAs and RMCs would have to describe the policies which they wanted waived as part of the application to participate in the demonstration, but they could also request additional waivers after they had been selected. For example,

A PHA could propose, and the Secretary could authorize experimentation with different methods of setting rent for their public housing units in order to test alternative rental strategies. Rents for public housing are currently set by law at the highest of 30% of adjusted income, 10% of gross income, or the welfare shelter rent. Waivers could be granted for developments with long-standing problems of high vacancies, authorizing imposition of ceiling rents below the current statutory level; setting lower rents for unit sizes, such as efficiencies, which are particularly hard to rent; or imposition of minimum tenant rents for residents of public housing who might otherwise pay no tenant rent. The demonstration of alternative rent-setting strategies could employ (a) a project-specific feature, a demonstration of use of an alternative rent schedule as a mechanism for solving a particular problem at a project or projects, or (b) a PHA-wide feature, a demonstration of the effects of removal of the rent restrictions PHA-wide on the income levels and characteristics of families housed by public housing.

A PHA could propose, and the Secretary could authorize, alternative methods for determining the income on the basis of which rent is determined. For example, in order to create a work incentive and to recognize the additional costs of working over not working, a PHA could disregard a portion of all earned income, or treat differently the income of a second wage-earner in a family, or phase in any income increases which result from going to work. Income disregards implemented by PHAs could include ones that are currently in the 1937 Act but that have not been implemented because they are subject to appropriations which have not been provided.

A PHA could propose and HUD could authorize a variety of creative uses of development funds, including projects which house a mixture or incomes in which the public housing portion is a percentage of the project and the units, rather than specific buildings and units. Such uses could also include projects which combine public housing for the elderly with intermediate care facilities.

Disallowance of earned income for residents who obtain employment

Section 206 would amend section 3 of the 1937 Act, which was amended in 1990 to disallow counting as income the earnings and benefits of any public housing (including Indian housing) resident resulting from participation in various employment training programs established under Federal, State, or local law in order to provide a work incentive. The disallowance of earned income resulting from the program extends for 18 months. The purpose of the provision was to provide a work incentive and to facilitate the transition from welfare to work.

This proposal would delete the 1990 disallowance provision and substitute a new

section 3(d), which would provide an 18-month disallowance of increases in income due to employment of public housing residents who become employed after having been unemployed for at least one year, regardless of whether they have participated in any employment training program. Thus, the proposal would provide the work incentive to an expanded group of public housing residents, by eliminating the need to participate in certain training programs. It would also target the incentive to those with no recent work experience, thus limiting somewhat the group now affected by the law. The net effect of substituting the new proposal for the earlier provision is no increase in cost.

In the interests of equity to residents, ease of administration, and the general comprehension and effectiveness of the work incentive, it is important that the rules affecting the treatment of earned income of residents previously unemployed be as consistent as possible, regardless of what kind of training program they may have participated in or whether their transition required any training at all. Further, because this provision applies to all members of the household, it creates the same incentive to begin working for a dependent child who has come of age and for any other additional adults in the household. Under the previous provision, only those members of the household who were eligible for, and who participated in, selected training programs would be able to benefit.

For families under the new section 3(d), rent increases after the initial 18-month period would be limited to 10% per year if the increases would result from the continued employment of a resident. By allowing a 10% annual increase in rent, the provision will prevent the newly employed person from experiencing any large increase which would create an incentive to cease employment. It cannot be assumed that, after a few years of employment, a person's income is likely to be substantial enough to afford a large rent increase. Low-income workers often experience little or no increase in wages over many years, and frequently have periods of unemployment.

The proposal would also repeal section 957 of the Cranston-Gonzalez National Affordable Housing Act, which applies to all assisted housing programs, and which provides that rent increases are limited to 10% per year for the first 36 months after employment if the rent increases would result from the employment of a resident who was previously unemployed. Unfortunately, section 957 creates an incentive for abuse by authorizing the disregard after any period of unemployment, no matter how short. It also would require appropriations because it applies to all assisted housing, unlike this proposal and the one it replaces, which apply only to public housing. Further, although the 36-month phase-in of rent increases would be quite adequate for most people going from welfare income levels to low-wage jobs, some workers would experience substantial rent increases at the end of the 36-month period. This proposal for an 18-month disallowance followed by an annual rent increase limitation of 10% avoids the weaknesses of section 957 while retaining the important concept of phasing in rent increases due to employment.

Ceiling rents based on reasonable rental value

Section 207 would amend the existing ceiling rent authority for the Public and Indian Housing programs to authorize PHAs to establish ceiling rents no lower than the reasonable rent for the unit.

Public housing now serves the poorest of the poor. The median income of nonelderly households is 16% of the local area median income. The national average income of non-elderly public housing families is less than $7,000. Only 6% of all non-elderly households have income exceeding 50% of local area medical income. Only 28% of all nonelderly households derive their income primarily from wages. Many developments have a very small number of working households. Literally, thousands of children are being raised in public housing developments where almost no one gets up and goes to work every morning. Nearly all the 700,000 non-elderly households in public housing live in areas characterized by extreme poverty.

The goal of public housing is to serve low-income households, and to serve them well. Creation of communities which do not include families whose lifestyle focuses on work, education, and upward mobility is to create communities which reinforce dependency, school drop-outs, teenage pregnancy, crime, and a bleak future for the children. Such communities do not serve their residents well and do not offer hope for the future of our cities and our nation.

A policy which contributes significantly to extreme concentration of very low-income households in non-elderly public housing is the so-called "30% rule," which requires PHAs to charge most resident families an amount which is 30% of their adjusted income, regardless of the value of the units. Developments vary widely in actual rental value. HUD's analysis shows that, based on rents that families are willing to pay for public housing units, over half of all public housing units have rental values below $300, and almost three quarters of all public housing have rental values under $400. Each time that a PHA informs a resident that the rent for the unit will be increased for the next year, the resident has to weigh the available options and decide whether to pay that amount for the unit, or try to get a better deal elsewhere. A decision to move may mean that the family lives in substandard housing, or that it pays an even higher percentage of income for rent, but it also means that it has chosen a unit that it believes to be worth the rent that is being charged, given the choices available in that market.

Because the 30% rule frequently forces PHAs to charge more than units are worth or residents are willing to pay, the policy is an incentive for many working families every year to leave public housing. Because some public housing developments are old and poorly designed, and lack security and good maintenance and management, their actual rental value is very low and some of the families being pushed out by the 30% rule may have incomes well below 50% of median. Nearly all the "push-outs," however, are working families. Application of the 30% rule also discourages public housing residents from working more hours and seeking higher pay, because a substantial part of the increase in earnings must go for rent.

Section 3(a)(2)(A) of the U.S. Housing Act of 1937 now allow use of maximum or "ceiling" rents. Ceiling rents may not exceed a maximum amount that—

(i) is established by the PHA/IHA and approved by HUD;

(ii) is not more than the amount payable by the family under the tenant rent formula (generally 30% of adjusted income); and

(iii) is not less than the amount of debt service and operating expenses attributable to units of similar size in developments owned and operated by the PHA.

Although this policy provides ceiling rents which are low enough to encourage working households to remain in some developments, in the majority of PHAs this formula produces a number that is higher than the perceived rental value of most, if not all, of the units. This occurs because there is no necessary relationship between cost and rental value. Many developments have very high debt service relating to extensive amounts of modernization or to recent construction. Operating costs can be increased substantially by high energy costs. The poor design, security problems, and stigma that often accompany public housing also contribute to a very low rental value. An effective ceiling rent must be related to the rental value of the units and must take into consideration the variation of rental values among the developments of a PHA.

The proposal would amend the 1937 Act to authorize PHAs to establish ceiling rents no lower than the reasonable rental value of the unit, as determined by the Secretary. The current requirement in (iii), above, would be deleted. A variety of methods would be permitted for determining reasonable rental value.

HUD has the capacity to analyze rents now being paid, by development, and to identify the highest 5% of rents, which represent the most that families are willing to pay for those units in that particular development. HUD would provide this data to PHAs so that it could be used as one method of determining ceiling rents. Indeed, the transition provisions that would apply until final regulations become effective would permit the use of such ceiling rents.

Effective ceiling rents would encourage poor, working households to remain in public housing longer and would attract such families to public housing. The families affected would primarily be working families with incomes between minimum wage, which is 25% of the national median income, and 50% of median. Effective ceiling rents would also encourage working families to obtain more income, since their rents will be frozen at the ceiling rent. Workers may work more hours, or spouses or adult children can become employed, without having a rent increase. This ceiling rent initiative based on rental value of the units could be expected to begin to improve the residential mix in nearly all developments, including the very poorest, within the first year.

For Indian housing, because normal market forces do not impact actual rents paid due to the limited choice of housing on Indian lands, HUD is exploring alternative methodologies for determining reasonable rental value for units in Indian housing authority developments.

Since the working families who will remain longer in public housing or will be attracted to public housing because of ceiling rents have incomes well above the average admission, the ceiling rent policy will more than pay for itself, even in the first year.

Pursuant to subsection (b), the Secretary would, after notice and an opportunity for comment, establish by regulation such requirements as may be necessary to carry out the ceiling rent authority, as amended by subsection (a). Prior to the issuance of final regulations, a public housing agency would be permitted to implement ceiling rents either determined in accordance with section 3(a)(2)(A) of the U.S. Housing Act of 1937, as it existed prior to the enactment of these amendments, or equal to the 95th percentile

of the rent paid for a unit of comparable size by tenants in the same project or a group of comparable projects totaling 50 units or more.

Authorization to sell public housing to nonprofit organizations

Section 208 would permit PHAs, including IHAs, to sell public and Indian housing to non-profit organizations for the purpose of facilitating homeownership by public housing residents. In addition, the reference to "lower income tenants" would be changed to "low-income families," which is the correct term under the 1937 Act.

Section 5(h) of the United States Housing Act of 1937 authorizes public and Indian housing authorities to sell housing units to their residents. This section would be amended to allow PHAs, at their option, to sell housing to a non-resident-controlled intermediate entity to facilitate homeownership. The use of a non-profit intermediary would offer administrative flexibility to those PHAs that do not have the necessary expertise or that do not wish to handle the implementing details of a section 5(h) sale transaction.

The Department would require PHAs which wish to exercise this authority to enter into a binding agreement with the non-profit to transfer the units within a specified period of time and to transfer the units in good condition. If rehabilitation is necessary, it must be accomplished before sale and at the expense of the PHA. The PHA would have flexibility to set a sales price which would make purchase by residents feasible.

Subtitle B—Severely Distressed Public Housing Program, Revitalization of Severely Distressed Public Housing

Amendments to section 24

Section 211 would amend section 24 of the U.S. Housing Act of 1937, the authorization for the Severely Distressed Public Housing program. Section 24 was enacted by section 120 of the Housing and Community Development (HCD) Act of 1992. For FYs 1993 and 1994, the Urban Revitalization Demonstration (URD) program, a program with similar objectives to the section 24 program, was established and funded under HUD's appropriations Acts. For FY 1995, the President's Budget proposes to fund the Severely Distressed Public Housing program. The amendments to section 24 made by this section incorporate some of the best features of the URD program into the section 24 program and make other improvements.

Designation of Eligible Projects.—Subsection (a)(1) would repeal the requirement in section 24(b) that the Secretary designate severely distressed projects. The Department thinks it is both unwise and unnecessary to establish and maintain a list of "severely distressed" public housing developments. As funds become available, localities will revitalize their distressed developments with funds from the Comprehensive Grant Program or apply for funding under this section. In the meantime, housing agencies will do their best to maintain these developments and create a decent living environment under very difficult circumstances. It would not be at all helpful to the ongoing effort to sustain these developments to label them as "severely distressed." A conforming amendment would be made to the annual report requirement in section 24(i).

Increase Planning Grant Dollar Cap.—Subsection (a)(2) would increase the maximum planning grant from $200,000 to $500,000. The current cap is too low for large public housing developments. The higher amount is needed to assure sound planning for undertakings as costly as those funded under section 24.

Community Service.—Subsection (a)(4) would require that planning grant applications propose planning for community service activities, and subsection (a)(7) would require that implementation grant applications propose community service activities. Subsections (a)(3) and (a)(6) would add planning for community service activities and the activities themselves as eligible activities.

Community service activities are a key feature of the URD program. These amendments recognize the important contributions residents of the developments can make to the well-being of all the residents of the development and the wider community, and that other members of the community and other persons can also provide significant support for the development. Community service opportunities for disadvantaged youth generally include opportunity for completion of high school education requirements, job training, and other activity designed to lead to economic mobility.

Replacement Housing.—Subsection (a) (6) (A) would clarify that funding under section 24 may be used to fund replacement housing. HUD would establish policies and procedures by regulation for the use of assistance available under section 24 for replacement housing, including replacement housing provided under equivalent State and local programs.

Increase Support Services Cap.—Subsection (a)(6)(B)(i) would increase the cap on the amount of the implementation grant that may be used for support services from 15% to 20%. This will provide greater flexibility to the PHAs and permit greater emphasis on critical social problems.

Contributions for Support Services.—Subsection (a)(6)(B)(ii) would establish a requirement similar to one in the URD program for contributions from non-Federal sources for supportive services in an amount equal to at least 15% of the amount of the implementation grant used for supportive services. In the URD, the contribution must be made by the local government. However, the Department has determined that flexibility to allow contributions from local foundations, private non-profit organizations, and other non-governmental groups will be equally useful in assuring a local commitment to the success of the revitalization effort. The contribution could be in the form of cash, administrative costs, or the reasonable value of in-kind contributions and could include CDBG funding.

National Geographic Diversity.—Subsection (a) (5) and subsection (a) (8) would clarify that "national geographic diversity among housing for which applicants are selected to receive assistance" is not a factor on the basis of which applications would initially be ranked. Ranking would take place on the basis of other factors. Then, when the initial ranking has occurred and it is possible to see the geographic location of the ranked applications, HUD would have the authority to select a lower-rated, approvable application over a higher-rated application to increase the level of national geographic diversity of applications approved under section 24.

Exception to Program Requirements.—Subsection (a)(9) would permit a revitalization plan to include demolition and replacement on site or in same neighborhood if the number of replacement units provided in the same neighborhood is fewer than the number of units demolished as a result of the revitalization effort. In addition, this subsection would permit a PHA to replace not more than one-third of the units demolished or disposed of through a revitalization project with tenant-based assistance under section 8.

Definition of Severely Distressed Public Housing.—Subsection (a)(10)(A) would recast the definition of severely distressed public housing, as follows:

(5) Severely Distressed Public Housing.—The term "severely distressed public housing" means a public housing project or a building in a project—

(A) that requires major redesign, reconstruction, redevelopment, or partial or total demolition to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems, and other deficiencies in the physical plant of the project; and

(B) that either—

(i)(I) is occupied predominantly by families with children which have extremely low incomes, high rates of unemployment, and extensive dependency on various forms of public assistance; and

(II) has high rates of vandalism and criminal activity (including drug-related criminal activity); or

(ii) that has a vacancy rate, as determined by the Secretary, of 50 percent or more; and

(C) that cannot be revitalized through assistance under other programs, such as the programs under sections 9 and 14, or through other administrative means because of the inadequacy of available funds in relation to the total modernization needs of the public housing agency; and

(D) that in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

Instead of qualifying as severely distressed public housing by meeting the requirements of either subparagraphs (A) or (B), the definition combines most features from both subparagraphs (A) and (B), simplifying and clarifying the definition and making it more feasible to administer.

An example of the problems in current law is section 24(h)(5)(ii), which refers to housing which is occupied by families in a severe state of distress, characterized, among other things, by such factors as high rates of teenage pregnancy and minimal educational achievement. Information on these two characteristics is not readily available at the project level. It is likely these variables are highly correlated to the data on amount and source of income, which is readily available and would be retained as proposed paragraph (5)(B)(i), above.

Another change is the deletion from current law of section 24(h)(5)(B)(i), which requires that projects qualifying under subparagraph (B) must be owned by a troubled PHA. A severely distressed, high vacancy development may occur in an agency that is not troubled.

Definition of Community Service and Support Services.—Subsection (a)(9)(B) would add two new definitions, as follows:

Community Service.—The term "community service" means services provided on a volunteer basis for the social, economic, or physical improvement of the community to be served.

Support Services.—The term "support services" includes all activities designed to lead toward upward mobility, self-suffi-

ciency, and improved quality of life for the residents of the development, such as literacy training, job training, day care, and economic development. Such activities may allow for participation of the residents of the neighborhood.

Amendments to Section 18

Subsections (c) and (d) would make several changes to give public housing agencies (including Indian housing authorities) more flexibility in planning for the future of their stock.

Use of Tenant-Based Assistance for Replacement Housing.—Subsection (c) would amend section 18(b)(3)(C)(i) to modify the circumstances under which tenant-based assistance under section 8 may be used as replacement housing by removing the requirement that the supply of private housing must be likely to remain available for 15 years. Instead the supply would be required to be likely to remain available for the full term of the tenant-based assistance. Since changes made in 1992 permit use of 5-year assistance in some cases, the test for feasibility would be changed to reflect the actual term of the assistance.

Replacement Housing Outside the Jurisdiction of the PHA.—At present, section 18 restricts the location of replacement units to the PHA's jurisdiction. Subsection (d) would permit locating some or all of the replacement units outside of the jurisdiction of the PHA but within the same housing market area, based on a realistic look at housing needs in the real economic community, and not simply according to the boundaries of political jurisdictions. For core-city PHAs, this might solve the problem of the unavailability of suitable replacement sites within their jurisdictions. It would allow adjoining communities to cooperate in a way that best serves the interests of the poor and might help to open up housing opportunities in adjacent areas where the employment picture is favorable.

Specifically, replacement units could be located outside the PHA's jurisdiction if—

(a) the location is in the same housing market area as the original agency, as determined by the Secretary;

(b) the replacement housing plan contains an agreement between the original agency and the PHA in the alternate location, or other public or private entity that will be responsible for providing the additional units in the alternate location ("alternate agency or entity"), that the alternate agency or entity will, with respect to the dwelling units involved—

(1) provide the dwelling units in accordance with program requirements;

(2) complete the plan within the required time period;

(3) work with the original agency to ensure that (A) the same number of individuals and families will be provided housing and (B) the maximum post-relocation rent provisions are complied with; and

(4) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

(c) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located.

Modernization Program Reserve Funds

Section 212 would permit PHAs (public housing agencies, including Indian housing authorities) to apply to use amounts in the $75 million reserve under the Public Housing Modernization program, which is not available only for needs resulting from natural and other disasters and from emergencies, for modernization activities related to settlement of litigation and desegregation of public housing.

Under the Modernization program, each Federal fiscal year, HUD begins the year with a $75 million reserve for disasters and emergencies. Any unused funds remain in the reserve and HUD replenishes it so that at the beginning of each fiscal year it begins with a $75 million balance. Currently, PHAs may request funds from the reserve in two circumstances: (1) a natural or other disaster such as a hurricane or earthquake, affecting only one or a few PHAs or any disaster declared by the President or would qualify for a Presidential declaration if it were on a larger scale; and (2) an emergency, defined as a physical need of an emergency nature, posing an immediate threat to the health or safety of residents and which must be corrected within one year.

Allowing PHAs to request reserve funds for litigation and desegregation activities will enable PHAs under the Comprehensive Grant program to preserve their formula funding for planned activities approved in the Comprehensive Plan which was subject to a public hearing. The formula funding provided to PHAs is based on backlog and accrual needs. Since the formula does not factor in litigation or desegregation needs, PHAs that have such needs would not be treated equitably if those needs had to be funded from the dollars allocated in the formula grant.

There is similar authority in the reserve established under section 213(d) of the 1974 Act, which is funded from amounts appropriated for public and Indian housing development and section 8 rental assistance. Currently, the section 213(d) reserve may only be used for:

(a) unforeseen housing needs resulting from natural and other disasters;

(b) housing needs resulting from emergencies other than such disasters;

(c) housing needs resulting from the settlement of lawsuits; and

(d) housing in support of desegregation efforts.

Another provision of this bill would authorize use of the section 213 reserve for fair housing activities and cash settlements in connection with civil rights litigation.

Eligibility of severely distressed public housing for public housing operating subsidies

Section 213 would amend section 9 of the U.S. Housing Act of 1937 to make it clear that public housing developed with funds appropriated under the URD demonstration or for the section 24 program of Revitalization of Severely Distressed Public Housing is eligible for operating subsidy.

The FY 1993 appropriations Act, which created the Urban Revitalization Demonstration, clearly contemplated that funds appropriated for URD could be used to construct new public housing units, either on the site of the project to be revitalized or elsewhere as replacement housing. The statutory language provides that "funding provided shall be used . . . for the capital costs of replacement units . . ." Further, it states that units demolished or disposed of under this demonstration may be replaced "by any combination of conventional public housing" and other approaches to providing affordable housing.

The HUD Act of 1992, which authorized the successor program to the URD, the section 24 program of revitalization of severely distressed public housing, also contemplates that public housing will be developed with URD money when projects are demolished and rebuilt.

However, there is some question as to whether operating subsidy can be paid to these units developed with URD or section 24 funds, since the operating subsidy statutory authority states, at section 9(a)(2), that "[t]he Secretary may not make assistance available under this section for any low-income project unless such project is one developed pursuant to a contributions contract authorized by section 5 . . ." Neither URD nor section 24 fit into this category.

Since it appears that the Congress expected housing developed with URD funds to be considered public housing, the amendment requested is a technical amendment to allow the intent of Congress to be met. It would simply add URD and section 24 developed projects to those eligible for operating subsidy.

Applicability of section 24 and URD statute and rules

Section 214 would establish that if any portion of a public housing development receives funding under section 24 of the 1937 Act or through the Urban Revitalization Demonstration (URD) funded under the fiscal year 1993 and 1994 appropriations Acts and has an approved comprehensive plan, the Secretary may establish such requirements for all the activities undertaken in the efforts to revitalize the whole project without regard to the requirements of the 1937 Act, and regardless of the funding source. For example, HUD could establish the same requirements for the modernization activities undertaken in the project with comprehensive grant funding as the Department establishes for rehabilitation activities undertaken in the project with section 24 or URD funds without regard to the requirements of section 14 of the 1937 Act.

It will be critical to the success of the severely distressed public housing program under section 24 and the URD program in dealing comprehensively and effectively with the problem of severely distressed public housing and its related social and economic issues to provide maximum flexibility to public housing authorities receiving such funding. Evidence already exists that URD grantees are finding that the process of obtaining waivers of rules that the grantees see as necessary to a successful revitalization is time-intensive and not conducive to innovative and experimental thinking. Under this proposal, a more fundamental approach to effecting change is taken. Statutes and rules governing one-for-one replacement, rent calculations, and site and neighborhood standards, for example, could be revised for any development receiving any section 24 or URD funds. For example, a 750-unit site that has received URD funding for 500 units and Comprehensive Grant funding for the remaining 250 units (or the reverse) would be subject only to one set of requirements that the Secretary establishes for the project with respect to both the URD funding and the Comprehensive Grant funding.

In addition, projects could be exempted from requirements of the 1937 Act that could hinder the PHA's ability to successfully bring about the revitalization of a public housing project that is subject to the section 24 Severely Distressed Public Housing program or the Urban Revitalization Demonstration. This would include provisions of section 18 that require the PHA to replace public housing that is demolished on a one-for-one basis. The replacement housing requirement has often proven impossible for PHAs to satisfy. This proposal would allow

the Secretary the discretion to determine if a PHA should be exempted from the replacement housing, or other requirements, if those requirements hinder the revitalization of the project.

A major concern is about how site and neighborhood standards should apply to replacement housing under the section 24 program and URD. Many of the older developments that are targeted under this program are in serious disrepair, and may be candidates for demolition and replacement. Some of these sites would not meet HUD's current requirements for new assisted housing construction. Under this proposal, HUD would be able to establish standards for review of site selection for replacement public housing in a manner that recognizes the need for revitalization of the neighborhood as well as the air housing implications of the racial and socio-economic information relevant to the replacement of public housing units.

Currently HUD is working aggressively with the two rounds of URD grantees to ensure that their strategies expand assisted housing opportunities in non-poor and non-minority neighborhoods, and ensure meaningful neighborhood reinvestment in distressed communities. Because the goals and principles of the Department's site and neighborhood standards correspond fully to the goals and conditions of the URD program, the Secretary will be able to establish a site and neighborhood assessment for URD projects that will balance the interests of neighborhood revitalization and spatial deconcentration.

Therefore, this proposal would facilitate the goals of the section 24 program and URD by ensuring that PHAs are able to move aggressively and comprehensively in implementing their revitalization plans by allowing the rules established for section 24 and URD projects and the approved comprehensive strategy (plan) for any section 24 or URD grant to govern all activities at the affected development (or in any impacted area off-site), regardless of such factors as funding source and the number of units in a replacement project.

Subtitle C—Anti-Crime Initiatives

Community Partnerships Against Crime

Section 221 would amend the Public and Assisted Housing Drug Elimination Act of 1990 to create an expanded program entitled the "Community Partnerships Against Crime Act of 1994." Under the revised program, HUD would be authorized to make grants to public housing agencies (including Indian housing authorities) and federally assisted low-income housing projects for use in carrying out activities to implement plans for crime suppression, intervention, and prevention in and around such housing projects.

Problem statement

Local officials, PHAs, and HUD share the responsibility of providing safe and decent housing for public and Indian housing residents. Housing in many areas suffers from rampant crime, which may include gangs or drug dealers imposing a reign of terror on local residents. The increase in crime activity has not only led to fear and acts of violence against residents, but also to a deterioration of the physical environment resulting in substantial government expenditures.

Crime is no longer limited to America's largest cities. The problems of crime and drugs have spread to the smaller cities and suburbs. Federal Bureau of Investigation data show significant increases in violent crimes against persons and crimes against property since 1985 in both large and small urban areas.

Purposes

Subsection (b) would amend section 5122 of the 1990 Act to establish the following new purposes:

(1) To improve the quality of life for law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

(2) To expand and enhance the Federal Government's commitment to eliminating crime in public housing;

(3) To broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related;

(4) To target opportunities for long-term commitments of funding primarily to public housing agencies with serious crime problems;

(5) To encourage the involvement of a broad range of community-based groups, and residents of neighboring housing that is owned or assisted by the Secretary, in the development and implementation of anti-crime plans;

(6) To reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving;

(7) To provide training, information services, and other technical assistance to program participants; and

(8) To establish a standardized assessment system to evaluate need among public housing agencies, and to measure progress in reaching crime reduction goals.

Program response

This proposal would establish an expanded program to address the issue of crime in public and Indian housing communities. The program, known as COMPAC, would organize PHAs, residents, and police as a community force in the development of comprehensive plans to counter crime in their neighborhoods.

Under a revised and renamed Public and Assisted Housing Drug Elimination Act of 1990, the program would include a much wider variety of crime reduction, security enhancement, and other efforts to counteract violence, substance abuse, and gang related activities.

Subsection (h) would amend section 5130 of the 1990 Act to provide a funding level for the expanded program of $265 million in grants for FYs 1995 and 1996. Of this amount, not more than 6.25% could be used for federally-assisted housing programs.

Subsection (h) would also add a new section 5130(d) to authorize the use of up to 2% of appropriated funds for contracts, grants, cooperative agreements, or interagency agreements with PHAs or other public or private organizations, to implement innovative programs which involve joint investment by the public and private sectors, to conduct activities designed to reduce crime and violence in public housing. These funds could be used to create pilot programs or to replicate identified successful program models. There has been widespread support from resident organizations, sponsoring companies, and PHAs for crime prevention initiatives, such as after school programs which provide a safe haven for youth who might otherwise return to an unsafe environment. The Federal investment would leverage a variety of resources from the private sector and other agencies.

Subsection (j) would add a new section 5131 to the 1990 Act, under which the Secretary would be permitted to use $10 million of the funds appropriated under section 5130 in FY 1995 and FY 1996 for technical and related assistance, including the establishment and operation of the clearinghouse on drug abuse in public housing and the regional training program on drug abuse in public housing. In addition, the Secretary would be permitted to use these funds for the establishment and management of assessment and evaluation criteria and specifications, and the procurement of the opinions of experts in relevant fields.

Expanded focus of program

The program would focus resources on areas of greatest need; be flexible enough to respond to the circumstances in each community; provide a cost-effective funding system; and establish standards for enforcement which define and clarify the roles of local officials, enforcement personnel, PHAs, and residents.

Subsection (d) would amend section 5125 of the 1990 Act to provide greater certainty of continued funding for those PHAs with especially severe problems. It would give HUD the authority to provide renewable grants, up to five years, to PHAs with serious crime problems, subject to the availability of appropriations. To renew a grant, HUD would be required to perform an annual performance review and determine that the grantee's performance is satisfactory.

Subsection (c) would expand the list of eligible uses of grant funds in section 5124(a) of the 1990 Act beyond the existing eligible activities to include the following:

Community Policing would be an eligible activity. This approach has been effective in regaining control of crime-ridden neighborhoods. Providing police officers to specific neighborhoods on a consistent basis builds relationships with residents, thereby increasing information exchange which deters and prevents crime. Residents become less fearful of reporting crime and, therefore, participate in solutions to address crime problems. Foot or bicycle patrols, police substations in public housing, community relations officers, and other techniques which put the officer in more direct contact with the community have demonstrated results in reducing crime statistics.

Youth Initiatives would recognize public housing youth as an essential resource in solving community problems. Their enlistment can, in itself, be good prevention-programming. Youth can be coaches in recreational programs, peer mentors, and leaders in community solution action planning. More emphasis could be placed on training, education, recreation, career planning, employment, and substance abuse education and prevention. Youth programming should provide the opportunities, skills, and information needed for youth to make appropriate life-style choices and offer a deterrence to gang activity. The chapter would specifically authorize use of grants for youth initiatives such as training, education, after school activities, tutoring, recreation, career planning, employment, and entrepreneur programs.

Resident Services Programs provide comprehensive resident services to effectively intervene and prevent crime activities in public housing populations. Services may include job training, educational programs, treatment, or other appropriate social services which address the contributing factors of crime.

Physical Security Hardware costs, such as fencing, lighting, locking and surveillance systems, would be allowable.

Authority for assisted housing owners and public housing agencies to ban guns

Section 222 would preempt State and local law to provide explicit authority for owners of insured housing and assisted housing (including housing projects under the section 8 and section 236 programs and housing units assisted under the Certificate and Voucher programs) and PHAs, including IHAs, under the Public Housing program to adopt lease provisions banning the use, possession, and discharge of guns in insured, assisted, and public housing.

Residents of assisted housing and public housing in many localities experience a higher level of violent crime than others who live in the locality. Guns are involved in a high percentage of these crimes. Owners of insured housing would be covered by this proposal to give them the discretion to include such lease provisions where appropriate.

When the Richmond Redevelopment and Housing Authority (RRHA) adopted a lease with a gun ban, it was sued by the American Civil Liberties Union and the National Rifle Association in Federal District Court on the grounds that the lease provision was not "reasonable" as is required by Federal Law. It its defense, RRHA relied on the testimony of Dr. Allan Barrett, then of Virginia Commonwealth University, who had studied crime in Richmond and, specifically, in RRHA units for the past 20 years. Dr. Barrett testified that even though the crime rate in the City was significantly higher than the national average for cities of similar size, the incidence of crime in RRHA developments was much higher than the city rate. He further testified about the incidence of gun-related crime. Finally, he damaged the NRA's position that the residents needed guns to protect themselves, by pointing out that there was not a single instance, in 20 years, of a resident using a gun for self-protection.

The Court in this case found that the PHA'S lease provision banning guns was reasonable. Unfortunately, RRHA's court victory was overruled by the Commonwealth's passage of a bill prohibiting public housing agencies from banning guns. This prohibition does not apply to private landlords.

Make criminal records available for screening and evictions

Section 223 would preempt State and local law and override other Federal laws to enable PHAs, including IHAs, to obtain information on the criminal records of applicants for, and residents of, public housing, for the purposes of applicant screening, lease enforcement, and eviction. PHAs would be authorized to pay a reasonable fee for this information.

Current regulations (24 CFR Part 960) direct PHAs to avoid admitting families that have the potential of damaging the social or financial stability of developments. Police departments are specifically cited in the regulation as sources of information PHAs may contact. Similarly, in 24 CFR Part 966, PHAs are directed to have lease provisions that make criminal activity grounds for eviction.

These requirements are difficult to carry out. The problem is that in some localities the police departments are either uncooperative or are barred by State law or local ordinance from providing criminal records. In the State of California, for example, the only access to police records is by police departments and then only for law enforcement purposes. In addition, there is a valuable Federal data base which currently excludes PHAs—the National Crime Information Center (NCIC).

Subtitle D—Authorizations and extensions

Low-Income Housing

Section 231 would amend section 5(c) of the United States Housing Act of 1937 to authorize increases in budget authority for fiscal years 1995 and 1996 for the Section 8 and Public and Indian Housing programs. Within the aggregate increase in budget authority, the earmarks set forth below would be made. For the most part, the amounts indicated are the same for each of fiscal years 1995 and 1996:

Public housing grants—$413 million, including $263 million for Indian housing;

Section 8—For FY 1995, $2.743 million, including $514,275,000 each for the community investment demonstration program and homeless assistance, and $171,425,000 for assistance for the disabled; for FY 1996, $2,811,500,000 including $527,175,000 each for the community investment demonstration program and homeless assistance and $175,725,000 for assistance for the disabled.

Modernization grants—$2.786 billion for FY 1995 and $2.375 billion for FY 1996, including $15 million for technical assistance and training;

Loan management—$150 million;

Extensions of expiring section 8 contracts—$5.092 billion for FY 1995 and such sums as may be necessary for FY 1996;

Section 8 contract amendments—$2.2021 billion for FY 1995 and such sums as may be necessary for FY 1996;

Service coordinators in public housing projects—$30 million;

Public housing lease adjustments—$21.9 million;

Demolition and disposition units, and opt outs—$82,916,000;

Section 23 conversions—$3,960,000; and

Revitalization of severely distressed public housing—$500 million.

Public Housing Operating Subsidies

Section 232 would authorize appropriations for Public Housing Operating Subsidies at $2,496,000,000 for fiscal year 1995 and $2,376,000,000 for fiscal year 1996.

Family Self-Sufficiency Program

Section 233 would authorize appropriations for the Family Self-Sufficiency program at $17,300,000 for fiscal year 1995 and $17,732,000 for fiscal year 1996.

Public Housing Family Investment Centers

Section 234 would authorize appropriations for Public Housing Family Investment Centers at $26,342,000 for fiscal year 1995 and $27,001,000 for fiscal year 1996.

Revised Congregate Services Program

Section 235 would authorize appropriations for fiscal year 1995 of $6,267,000 for the Revised Congregate Services program.

Indian Housing Loan Guarantee Program

Section 236 would authorize an appropriation for the cost of subsiding loans in the Indian Housing Loan Guarantee Fund of $3 million for each of fiscal years 1995 and 1996. The limitation on the aggregate principal amount of loans in each such year would be $22,388,000.

Subtitle E—Applicability

Applicability of Public Housing Amendments to Indian Housing

Section 241 would repeal section 201(b)(2) of the United States Housing Act of 1937. This provision states that amendments modifying the public housing program that are enacted after the Indian Housing Act of 1988 do not apply to Indian housing unless explicitly made applicable. This proposal would also make clear that certain amendments affecting the public housing program made by the Cranston-Gonzalez National Affordable Housing Act (NAHA), the Housing and Community Development Act of 1992 (92 Act), and the Multifamily Housing Property Disposition Reform Act of 1994 (94 Act) apply to the Indian Housing program.

Since its enactment in 1988, section 201(b)(2) has caused confusion as to which legislative amendments affecting the public housing program apply to Indian housing. Even where the law expressly applies to Indian housing, HUD staff and IHAs have trouble keeping straight which provisions in the 1937 Act and other Acts apply to the Indian housing program.

Even worse is the situation where there is no logical reason for an amendment not to apply to Indian housing, but Congress fails to include the section 201(b) boilerplate required to make the provision applicable. For example, NAHA, the 92 Act, and the 94 Act made the following amendments affecting the public housing program that, because of failure to include the necessary boilerplate, to not apply to Indian housing.

NAHA

Section 955(b)—Exempt wage standards under section 12 for volunteer work.

92 Act

Section 103(a)(1)—Exempt retroactive SSI payments from income.

Section 112—Lower the applicability of Federal preferences from 70% to 50% of units.

Section 114—Miscellaneous operating subsidy amendments.

Section 116—Miscellaneous demolition and disposition amendments.

Section 118—Public housing homeownership under section 21 (technical amendments).

Section 903—Require new consent form for the release of applicant and participant information.

Section 927—Protect tenants who receive utility allowances from having their eligibility or benefits under energy assistance programs reduced or eliminated.

94 Act

Section 301—Correct the definition of family in the 37 Act.

Section 302—Eliminate the requirement to identify CIAP replacement needs.

Section 303—Raise threshold for project-based accounting from 250 units to 500 units.

Section 304—Permit operating subsidy adjustments only for actual rent increases from fraud recoveries.

The repeal of section 201(b)(2) would avoid the inadvertent failure to provide that amendments to the public housing program apply to the Indian housing program. Section 201(b)(1) (retained in this amendment) provides, however, that unless otherwise specified, the provisions of the 1937 Act that apply to public housing apply to Indian housing. Therefore, if the authors of future legislation involving public housing do not want it to apply to Indian housing, they will need to make that explicit. Such situations should, however, arise much more infrequently than situations where the authors do want the amendments to apply to Indian housing.

The bill makes it clear that the repeal of section 201(b)(2) is not intended to affect existing legislation that applies changes to public housing to the Indian housing program in accordance with the repealed authority.

In addition, as discussed above, there is no apparent reason why the amendments specified above were not made applicable to the

Indian Housing program. Therefore, this proposal would make them applicable.

TITLE III—HOMEOWNERSHIP; FHA MORTGAGE INSURANCE AUTHORIZATIONS

Subtitle A—Expand single family homeownership opportunities

Single Family Mortgage Insurance in Revitalization Areas

Section 301 would establish a new FHA program to make FHA home mortgage insurance available on special terms to low- and moderate-income homebuyers in revitalization areas. The proposal recognizes the substantial contributions FHA has made over the last 60 years in providing homeownership opportunities and offers an expansion of the program to buyers in neighborhoods undergoing revitalization efforts. A new section of the National Housing Act would authorize insuring authority and special financing terms targeted to first-time homebuyers in revitalization areas receiving public and private investment for improvement.

This program is an additional mechanism to encourage homeownership among low- and moderate-income families through the FHA insurance program, as opposed to direct subsidies. The proposal dovetails with the counseling initiative ("Homeownership Counseling and Outreach") elsewhere in the bill, since counseling will be mandatory under the program and can also benefit from the down payment assistance contemplated in the National Homeownership Fund Demonstration or other local programs.

There are three important reasons for this proposal:

Affordable homeownership is a key goal of the Administration. The opportunity to purchase one's own home is an abiding dream for millions of Americans, especially for America's young, for whom homeownership rates fell during the 1980's. FHA will continue to make an important contribution to reaching this goal.

FHA has a special responsibility to serve a broad range of families. While the need to operate a financially sound and responsible FHA program is clear, nonetheless there are opportunities to expand FHA's reach into the community by offering favorable terms, and the proposal reflects this outreach.

FHA must become more of a partner in local and community efforts to revitalize neighborhoods. The availability of mortgage insurance can be one key element in developing sound neighborhoods as new homeowners purchase and upgrade housing in the community.

Advantageous financing for mortgagors

The proposal would establish new insuring authority under the National Housing Act to provide home mortgage insurance in revitalization areas.

The main feature of this insurance is that it would provide very favorable financing terms for eligible mortgagors purchasing affordable housing in revitalizing areas. Under the program, buyers would be able to receive 100% financing on the home. Insurance could be written for 100% of the appraised value of the property, as opposed to the graduated method of calculating the maximum insurable mortgage. The value would not include an allowance for closing costs.

Although closing costs could not be financed through the insured mortgage, these costs as well as other cash requirements for closing (e.g. points, prepaid expenses) could be provided through State or local government programs, non-profit contributions, or even seller or other third party gifts. In other words, the program would not restrict how these costs were covered and would not impose a minimum cash requirement (as a percentage of acquisition costs) as is normally done under the single family programs. In addition, FHA would allow for second trusts if necessary to finance the mortgagor's cash requirements, although these trusts could not be insured.

The combination of 100% insured financing and allowing the prospective mortgagors to derive their cash requirements from sources other than their own could in many instances result in debt amounts that exceed the value of the property. However, this would be balanced in the program by two requirements.

First, mortgagors participating in the program would have to meet certain mortgage credit guidelines. The standard ratios of income to mortgage payment and income to fixed obligations would be applied and the mortgagor would have to be able to afford the housing on this basis.

Second, all mortgagors would be required to participate in prepurchase counseling regarding homeownership, money management, and household maintenance. These services could in fact be a part of the neighborhood revitalization program undertaken at the local level and in this sense might be contributed.

Program targeting

This new program would be targeted to revitalization areas defined as (a) empowerment zones, enterprise communities, and equivalent State-approved enterprise zones, and (b) urban neighborhoods that are targeted by a city or a county for coordinated affordable housing programs and enhanced supportive services. This is because the outreach built into the new program is intended in part to help cities and distressed areas regain vitality.

This definition will allow substantial flexibility for the locality to select a neighborhood that will benefit from coordinated investment by the public and private sectors. At the same time, the definition is intended to preclude localities from defining so large an area that targeted investments may be ineffectual. Such investments may include the commitment of State or local housing or other program funds, partnership efforts undertaken by public and private entities, or areas where non-profit and community development corporation activities are being undertaken. In addition, the areas could contain efforts undertaken by the secondary market agencies under their affordable housing programs or community reinvestment lending activities undertaken by local lenders.

The combination of these types of local efforts and FHA insurance will be beneficial. New homeowners will have a chance to purchase and invest in housing. Insurance will be available for new, existing or rehabilitated single family dwellings, and property types could include condominium and cooperative units. In addition, the program could utilize single family properties owned by HUD or other governmental entities, and complement programs such as HOME and HOPE III in the disposition of owned real estate. As this investment in housing occurs, upgrading of the housing should take place and the community itself should become more stable as homeowners settle in the area and new owners are attracted.

In addition to targeting to certain areas, the program will be targeted to certain mortgagors. First, the program will be available to those who have no more than 115% of median income of the area. This establishes a reasonable limit on participation in the program, in terms of not providing its favorable terms to all mortgagors, but would allow the program to assist an income mix and avoid concentration of only low-income beneficiaries. Coupled with the income limitation, the program will have a maximum insured mortgage amount of the greater of $67,500 or 75% of the high cost limit established under Section 203(b)(2) of the National Housing Act. On individual structures, the mortgage also is limited to 100% of appraised value.

Second, the mortgagor must be a first time homebuyer. The proposal employs the definition of first time buyer contained in Section 104 of the National Affordable Housing Act of 1990. That definition provides that a first time homebuyer is an individual and spouse who have not owned a home during the previous three year period. The definition also includes displaced homemakers (who may have owned a home with a spouse prior to the purchase of a home under this authority) and single parents who are unmarried or legally separated from a spouse. The proposal recognizes the fact that if very advantageous FHA terms are allowed, they be available to those who may need them the most and who may have special needs.

Finally, mortgagors may participate in the program only once.

Premium charges and program costs

Because of its unique nature, the program will be insured under the General Insurance Fund. This means that while the program is intended to be operated in a financially responsible manner, it is not required by statute to be actuarially sound and therefore can assume more risk in order to serve the social purposes of increasing homeownership opportunities and assisting neighborhood revitalization efforts. The program will not impact the Mutual Mortgage Insurance Fund.

Premium charges under this program will differ form the normal premium structure. A deferred "up front" premium will be collected. The appropriate deferred up front charge will be due and payable when the property is sold or the mortgage otherwise terminated. However, the mortgagor will pay a 0.55 percent annual premium for the life of the insured loan or if a larger downpayment has been made, for a shorter period. In addition, there will be two circumstances where the deferred charge will not be collected as scheduled:

If the property is sold, the Department would be able to recapture the premium charge or 50 percent of the net appreciation of the property, whichever is less. This will allow the mortgagor to retain at least 50 percent of the equity built up in the home and will avoid the deferred premium charge as acting as a disincentive to maintain and keep current on the property.

If during the course of the life of the loan the mortgagor wishes to undertake a streamline refinancing of the initial loan, the Department will allow such refinancing and will not collect the deferred premium as part of the loan transaction. The mortgagor would be responsible for the premium charge on the new mortgage, however. In this way, it may be possible for some mortgagors to refinance on a favorable (and sounder) basis without having to face the deferred charge.

It is clear that the program will involve risks greater than those than normally assume under the Section 203(b) program and because of its very favorable terms the program will be popular with individual and communities. A limit will be placed upon program volume, however. That limit will be

10 percent of the previous year's single family mortgage insurance volume. (This volume includes any 2-4 family activity.) A volume of 20,000-30,000 loans should be expected under the program, with lighter volume the first year as counseling requirements are met and counseling resources developed at the local level. Preliminary budget analysis shows that $3.6 million in credit subsidy per 5,000 participants would be needed for the FY 1994 book of business and $2.7 million per 5,000 participants for the subsequent years' book of business.

SECTION-BY-SECTION SUMMARY

A section-by-section summary follows: Subsection (a) of this section would add a new section 256 to the National Housing Act. Section 256(a) would authorize the Secretary to insure mortgages in accordance with the provisions of section 256, and to make commitments to insure such mortgages before the date of their execution or disbursement thereon.

Subsection (b) would limit participation in the new program to a mortgagor who—

(1) has an income not exceeding 115% of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher (but no more than 140%) or lower than 115% of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes;

(2) is a first-time homebuyer, as defined in section 104(14) of the Cranston-Gonzalez National Affordable Housing Act;

(3) will occupy the dwelling as his or her principal residence;

(4) has received such pre-purchase counseling as the Secretary deems appropriate with respect to the responsibilities and financial management involved in homeownership;

(5) has not previously been a mortgagor under this section;

(6) has assets not exceeding such amount as the Secretary may prescribe; and

(7) meets such other requirements as the Secretary may prescribe.

Subsection (c) would permit a mortgage to be insured under the new program only if the mortgage—

(1) has been made to, and is held by, a mortgagee approved by the Secretary as responsible and able to serve the mortgage properly;

(2) covers a one-family dwelling (including a one-family unit in a condominium development and shares representing a one-family unit in a cooperative development) that is located in an urban neighborhood that, in the determination of the Secretary, is targeted by a unit of general local government for revitalization using coordinated affordable housing programs and enhanced supportive services;

(3) involves a principal obligation (exclusive of any charges and costs in connection with the loan, including initial service charges and appraisal and inspection fees) in an amount not exceeding the lesser of—

(A) $75,000 or 75% of the maximum mortgage amount determined under section 203(b)(2)(A), whichever is greater; or

(B) 100% of the appraised value of the property as of the date the mortgage is accepted for insurance.

However, in any case where the dwelling is not approved for mortgage insurance before the beginning of construction, the mortgage may not exceed 90% of the appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year before the application for mortgage insurance; or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, before the beginning of construction; or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements that would have been applicable if the dwelling had been approved for mortgage insurance before the beginning of construction.

(4) has a maturity satisfactory to the Secretary, but not to exceed 30 years from the date of the beginning of amortization of the mortgage;

(5) contains complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of the mortgagor's reasonable ability to pay, as determined by the Secretary;

(6) bears interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(7) provides, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage;

(8) contains such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe; and

(9) complies with such other terms and conditions as the Secretary may prescribe.

Subsection (d) would require the mortgagor to pay all charges and costs in connection with the loan, including any costs necessary to close the loan. However, some or all of these charges and costs could be paid on behalf of the mortgagor by any person or entity (including the seller, a governmental jurisdiction, or a private non-profit entity), under such terms and conditions as the Secretary may prescribe.

Any charges or costs paid on behalf of a mortgagor may be in the form of a loan secured by the property under such terms and conditions as the Secretary may prescribe. Any such indebtedness must be a lien subsequent to that of the insured mortgage; must not be part of the loan secured by the insured mortgage; and must not be considered for purposes of determining the maximum mortgage amount under subsection (c)(3).

Subsection (e) would provide that in connection with the insurance of a mortgage under section 256, the Secretary must establish and collect a deferred up-front premium and an annual premium, as provided in section 203(c)(2) of this Act and section 2103(b)(2) of the Omnibus Budget Reconciliation Act of 1990. Instead of collecting the MIP at the time of insurance, the mortgagee would collect the amount due from the proceeds of the sale of the property or upon payment of the mortgage in full, and would have to remit the amount to the Secretary according to such procedures and at such time as the Secretary may prescribe. In determining the amount of MIP due, no interest would be charged on the MIP.

The amount of the deferred up-front premium payable to the Secretary would be the lesser of (i) the amount of the premium established, minus any refund due; and (ii) 50% of the net appreciation of the property, as determined by the Secretary. For purposes of the program, net appreciation of the property would mean any increase in the value of the property over the original purchase price, less the reasonable costs of sale and the reasonable costs of improvements made to the property.

No part of the deferred up-front premium established in connection with a mortgage that was insured under section 256 and that is refinanced under section 223(a)(7) would be payable to the Secretary.

Subsection (f) would provide that the term appraised value means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.

Subsection (g) would provide that any mortgagee under an insured mortgage is entitled to receive the benefits of the insurance as provided in section 204(a) with respect to mortgages insured under section 203, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 204 would apply to the mortgages insured under section 256, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund would be construed to refer to the General Insurance Fund; (2) all references therein to section 203 would be construed to refer to this section; and (3) the excess remaining, referred to in section 204(f)(1), would be retained by the Secretary and credited to the General Insurance Fund.

Subsection (h) would provide that the aggregate dollar amount of commitments to insure mortgage under this section for any fiscal year could not exceed 5% of the amount of commitments to insure mortgages covering one- to four-family properties that were made by HUD under title II of the National Housing Act during the preceding fiscal year. However, HUD could make commitments to insure mortgages for up to an additional 5% in the case of properties in empowerment zones or empowerment communities approved under subchapter U of Chapter 1 of the Internal Revenue Code of 1986, or in equivalent State-approved enterprise zones. In addition, no more than 20% of the units in any revitalization area could be subject to a mortgage insured under the new program.

Subsection (b) of this section of the bill would provide that the Secretary shall, by interim rule published for effect in the Federal Register, establish such requirements as may be necessary to carry out the provisions of subsection (a). The Secretary would issue final regulations based on the interim rule after notice and opportunity for public comment.

Subsection (c) would require HUD, within 4 years of the date of implementation, to evaluate the program and, if appropriate, recommend to Congress legislation to terminate or improve it.

Maximum Dollar Amount for FHA Single Family Mortgages

Section 302 would amend section 203(b)(2) of the National Housing Act to revise FHA single family mortgage limits.

Currently, the National Housing Act establishes a floor mortgage limit of $67,500 and allows for high-cost limits which may not exceed the lesser of 95% of the median house price in the area or 75% of the FNMA/FHLMC conforming loan limits ($151,750). The Housing and Community Development Act of 1992 contained the last increase in FHA mortgage limits for single family and for 2-4 family properties. That legislation tied the maximum limits to the above percentage of the conforming loan limits (for

appropriate sized dwellings) that were in effect as of September 30, 1992. Although the conforming loan limits may increase according to an index under separate authority, future increases in the FNMA/FHLMC limits will have no effect on the FHA mortgage limits until the law is changed. The 1992 Act also mandated that the General Accounting Office (GAO) conduct a study of the effect of tying the FHA limits to the limits set for FNMA and FHLMC, including the effect on low- and moderate-income borrowers of indexing the limits.

The amendment proposed would establish a new floor limit based on average sales price data employed in the Mortgage Revenue Bond program and would increase one of the loan ceiling factors from 75% to 85% of the FNMA/FHLMC conforming limits ($172,675). Both the floor and the maximum limits would be adjusted annually. The proposal would not only make FHA more responsive of the home buying public but also would streamline the mortgage limit setting process by reducing the number of areas for which the Department must set limits.

In establishing the floor limit, the Department will use data on average sale prices for new and for existing homes which are used to establish mortgage limits in the Mortgage Revenue Bond program. These data are prepared by the Office of Thrift Supervision for the Federal Housing Finance Board, and are used by HUD under agreement with IRS to establish basic mortgage limits in connection with Mortgage Revenue Bonds. HUD will establish one limit for each metropolitan area and one limit for all other areas in a State.

Existing floor limit levels as of the date of enactment will not be lowered if the new limits are lower, but will be held harmless. The floor limit will be indexed to the Constant Quality Index, a national measure of home price changes in a dwelling with characteristics that remain constant over the years, and will be subject to annual adjustment.

One key effect of the amendment will be to expand the housing opportunities for average American families (e.g. teachers, police and fire fighters, factory workers) in areas that have relatively high housing costs. This will be true not only in the very high-cost areas as may be found in California and Connecticut, but also in some areas where the floor limit increases over $67,500.

For example, the salary range for teachers, police officers, and fire fighters in Bridgeport, Connecticut is between $27,000 and $35,000. Under FHA underwriting rules and assuming a combined income of $65,000, a family could qualify for a median priced house in excess of both the current and proposed limits. Similar examples can be found in California and other States. However, the current limit shuts out a part of relatively high-cost markets for these families. This would be opened up to them under the new limits, and there would be 118 counties which could be affected. However, the limits would continue to be set at about 15 percent under the standard limits for conventional lending.

In addition, expanding FHA's ability to serve modest income workers can be done without an increase in expected risk. HUD would expect that slightly larger loans would perform better than relatively smaller loans, on the basis of past experience.

Finally, the increase in the base or floor limits will have several beneficial effects:

Homeownership opportunities for families with modest income in moderately high cost areas will be increased;

New business resulting from increases in floor limit levels will be sound business and will strengthen the Mutual Mortgage Insurance Fund (MMIF);

The MMIF will be better positioned to reach out to other underserved buyers because of the cross subsidization allowed under its mutuality feature;

Administrative costs involved in setting mortgage limits for numerous small communities will be reduced; and

The change will alleviate problems which have been encountered in some rural counties, where the current limits do not reflect proximate city housing costs.

Streamlined Refinancing for HUD-Held Mortgages

Section 303(a) would provide insured refinancing for certain single family mortgages that have been assigned[1] to the Secretary. Currently, only insured mortgages are eligible for refinancing under the National Housing Act (NHA).

The proposal would add a new section 223(a)(8) to the NHA to permit streamlined refinancing (without a new appraisal) for eligible Secretary-held mortgages on single family properties and condominium units. The proposal would permit refinancing mortgages on single family properties to be insured under section 203(b)[2] or 221(d)(2)[3] at the option of the lender. With regard to condominium units, the mortgages involved in the streamlined refinancing program would be insured under section 234(c) of the NHA. A mortgagor could refinance under the new authority only once.[4]

This program would be optional for eligible mortgagors that: are current under the note and have made the full payment under the note for at least six months; or are under a forbearance agreement and have been making the full payment under the note for at least six months.[5]

A conservative estimate of the number of mortgages that would be eligible for this program is about 12,000, amounting to almost 13 percent of HUD's assigned inventory.

The principal amount of the refinancing mortgage could exceed the amount of the original mortgage if required to accommodate additions to the principal amount stemming from a delinquency and the provision of assignment assistance. However, the new payment under the refinanced mortgage could not exceed the required monthly payment under the existing mortgage. Consistent with the current refinancing authority, the term of the refinancing mortgage would be limited to 12 years beyond the unexpired term of the existing insured mortgage. The proceeds of the refinancing mortgage would be deposited in the MMIF, or another appropriate fund, at settlement, thereby providing a onetime increase to the Fund.[6]

For the purpose of the streamlined refinancing program, this proposal would establish mortgage limits under section 221(d)(2) at 50 percent of the applicable dollar limitation for a one- to four-family residence under section 203(b)(2).

For mortgages refinanced under section 203(b), the mortgagors would be required to pay the new risk-based mortgage insurance premium (MIP). Mortgages refinanced under section 203(b) or 234 would be subject to the applicable mortgage limits for the area.

The proposal would also make a technical change in section 223(a) of the NHA. A proviso currently a part of paragraph (7), which does not involve paragraph (7), would be moved to the end of section 223(a) as paragraph (10).

Footnotes at end of table.

HUD's assigned inventory has been growing over the last five years and currently amounts to approximately 94,000 mortgages, including loans treated under the assignment program as well as certain loans assigned to the Secretary pursuant to section 221(g)(4). This proposal constitutes a way for HUD to meet the management challenge associated with part of this increasing workload. Selling loans from the assignment program is not a viable option. However, these loans are not an attractive investment vehicle without insurance. This proposal would remove the refinanced mortgages from the assigned inventory, place the proceeds of the refinancing into the MMIF, or other appropriate fund, and place mortgagors in a current status with a new loan. Making these loans current with a new lender would free HUD staff up to accomplish other tasks, including better monitoring and servicing of the remaining loans.

By virtue of this proposal, HUD in effect would be exchanging an existing debt for a new insurance risk. It is HUD's view that the insurance risk of the refinanced mortgage would be comparable to that of the existing debt for several reasons.

First, the amount of the new mortgage would only marginally exceed the old debt. The possible extension of up to 12 years in the term of the mortgage should not make any difference in risk. Under section 230(a)(2)(C) of the NHA and HUD's regulations, HUD now has the authority to extend the term of HUD-held mortgages in the assignment program for up to 10 years.

Second, only mortgagors that have been current in their payments under the note for six months will be eligible. HUD believes that this is a significant risk-reduction feature of the new program. The assignment program is designed to give temporary relief to mortgagors that have experienced difficulties beyond their control, and a significant number do in fact recover.

Third, those mortgagors under a forbearance agreement will have a new incentive to keep their refinanced mortgages current. They will be starting with a clean slate, free from any delinquency, with the advantages of an extended mortgage term and the current lower market interest rates. Those mortgagors under a forbearance agreement that are making their required payments on the note may nonetheless be living in a state of virtual perpetual delinquency. The forbearance agreement does not necessarily require payment of all deferred charges from the date of initial default. With the refinancing, however, all delinquencies would be rolled into the refinanced mortgage. On the other hand, HUD is cognizant of the fact that the mortgagors that are under a forbearance agreement have had difficulties meeting their obligations in the past; their refinanced mortgages will have high loan-to-value ratios; and their monthly payments may be equivalent to their monthly payments on the earlier note.

The statute as currently written does not permit the refinancing of assigned mortgages. A change to allow the streamlined refinance of Secretary-held mortgages would benefit a number of parties. The Department would benefit since the assigned inventory would be reduced, servicing demand would be reduced, and the proceeds from the refinancing would replenish the MMIF. The mortgagor would benefit because the mortgagor would be paying a lower interest rate, and might even have a lower payment than currently agreed upon with HUD. Lenders would benefit because the refinancing would entail relatively little processing.

The new program would work as follows. HUD would notify mortgagors currently in the assignment program of the availability of the new program for refinancing and the possible benefits of participation. Also, HUD would notify lenders of the availability of the program and how it is to work.

The refinanced mortgages could be processed under section 203(b), 221(d)(2), or, for condominiums, 234(c), at the option of the lender. Section 221(d)(2) would be available in order to protect the MMIF from undue risk and provide lenders with an insurance option.

HUD would establish administrative guidelines under the refinancing program to minimize the risks involved. In addition to those discussed above, these would include advising lenders that:

They could institute underwriting steps, such as credit checks, verifications, application of income and payment guidelines, in addition to those required under the streamlined refinancing of insured mortgages; and

They could recommend (but not require) homeownership counseling for the mortgagor in appropriate cases, provided that counseling agencies and funds for counseling are available.

In some cases, because of delinquencies, the new mortgage balance may exceed the initial mortgage balance. However, this should not pose a processing problem since no appraisal is involved with a streamlined refinance and because the mortgagor will have at least a six-month history of successful performance at a payment that equals or exceeds the new payment on the refinancing mortgage.

The option for refinancing under section 221(d)(2) removes the credit risk from the MMIF while at the same time providing favorable financing terms for the mortgagor. First, proceeds would be returned to the MMIF on an accelerated basis and servicing costs would be reduced. Second, since the mortgagors involved are special cases, default risk on the new credit would be transferred to the General Insurance Fund.

Subsection (b) would authorize HUD to implement the new refinancing authority by notice published in the Federal Register setting forth such requirements as may be necessary.

Subsection (c) would terminate HUD's authority to refinance a mortgage held by HUD 30 months after the date of enactment of this Act. The total number of mortgages refinanced under the new authority could not exceed 20,000. HUD will evaluate the results of refinancing mortgages under this new authority before considering extension of the program.

Innovative Affordable Housing Demonstrations

Section 304(a) would authorize HUD to establish Innovative Affordable Housing Programs demonstrations which would have the potential to increase homeownership opportunities through the use of alternative mortgage instruments insured under the National Housing Act and partnerships with the Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Federal National Mortgage Association ("Fannie Mae"), with the Federal Home Loan Banks and their members, and with State and local housing finance agencies in connection with their responsibilities to achieve affordable housing goals. While current law contains authority for specific alternative financing programs, it does not provide general authority for FHA to develop or insure new mortgage instruments. Because of this omission, each potential innovation must await new legislation, which can take several years to be enacted. Similarly, broad authority to enter into partnerships with other housing entities could enhance private and public efforts to provide affordable housing and homeownership opportunities.

Under subsection (b), each demonstration could be approved for a period of up to three years, but the term of an insured mortgage or activity could extend beyond this term. In total, these demonstrations could not exceed 10 percent of the previous year's single family FHA insurance volume. The total number of mortgages insured pursuant to any one demonstration in any fiscal year could not exceed 5% of the number of single family mortgages insured in the previous fiscal year. Under each approved demonstration, the Secretary could waive any requirements of the National Housing Act or any other applicable statutory or regulatory requirements that were determined to be inconsistent with the purposes of these demonstrations and establish necessary program requirements (see subsection (c)).

In accordance with subsection (d), the alternative mortgages would be obligations of the general insurance fund under section 519 of the National Housing Act and the Secretary would establish appropriate terms and conditions, notwithstanding otherwise applicable provisions of the National Housing Act.

Subsection (e) would authorize HUD to establish necessary requirements to further the purposes of the demonstration, and subsection (f) would establish certain conditions for each demonstration, including a requirement that each demonstration be evaluated. Annual progress reports and a final report to Congress would be required by subsection (g). Subsection (h) would authorize $1 million for an evaluation.

The term "alternative mortgage instruments" would be defined in subsection (i) to include (but would not be limited to) mortgages within the definition of "alternative mortgage transaction" in section 803(1) of the Alternative Mortgages Transaction Party Act of 1982. This includes loans or credit sales (a) in which the interest rate or finance charge may be adjusted or renegotiated, (b) involving a fixed rate, but which permits rate adjustments by having the debt mature before the term of the amortization schedule, or (c) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions.

Single Family Risk-Sharing Mortgage Insurance Program

Section 305 would add a new section to the National Housing Act to authorize risk sharing of insured mortgages between HUD and selected State and local agencies to allow those agencies to better serve their relatively high-cost markets. The purposes of the program under this section would be (a) to increase the availability of single family mortgage financing in areas where there is need for mortgage insurance under this Act that cannot be met due to particularly high average median house prices in the area, and (b) to foster arrangements with State and local agencies to share the risk of mortgage insurance. (See section 257(b).)

In States such as California, where many metropolitan areas have relatively high average home prices, the FHA single family mortgage insurance program may not be used effectively because it is limited by statutory mortgage limits. State and local programs in such areas generally contain mortgage limits which exceed those of FHA. This proposal is designed to offer FHA credit enhancement through a risk sharing arrangement with State and local agencies in connection with loans which qualify under a State or local agency program but which exceed FHA maximum mortgage amounts.

The proposal is designed to complement State and local efforts to provide affordable housing without assuming undue risk. There will be a fairly narrow market for this program because it is targeted at those States with relatively high costs that fall between the maximum FHA amount and the conforming loan amount. This slice of the market includes working class families in high-cost housing market areas who may have a difficult time finding affordable homes. The presence of FHA as a credit enhancer may allow State and local programs to work better (for example, through sales of the State and local loans to the secondary market other than GNMA).

Eligibility

HUD would be authorized to do business under this insuring authority only with a State or local agency (or an agency or instrumentality of a State or local agency) that demonstrates that (a) it has the legal authority under State and, where applicable, local law to participate in the risk-sharing mortgage insurance program, (b) it can carry out a financially sound, efficient, and effective mortgage insurance program, while maintaining a top credit rating, and (c) it has the ongoing administrative and financial capacity necessary to oversee financial operations and sound processing of loan origination and property disposition (See section 257(c)(1).)

HUD would have the authority under the risk-sharing agreement to cancel the approval of a State or local agency to participate in this program, effective upon receipt of the notice by the mortgagee or at a later date specified by HUD. A decision by HUD to cancel approval would be final and conclusive and would not be subject to judicial review. (See section 257(c)(2).)

Delegation of insuring authority

Pursuant to a risk-sharing agreement negotiated between HUD and an eligible State or local agency, HUD would delegate to the agency the authority to insure the portion of the mortgage covered by FHA insurance. (See section 257(d).) The agency would also assume responsibility for loan management and property disposition.

Underwriting standards and processing

The agency would adopt underwriting standards and loan terms and conditions for the purpose of the program without regard to requirements of the National Housing Act, other than the new authority, section 203(g) (restrictions on investors), and section 203(r)(2) (assumptions restricted to creditworthy purchasers). These underwriting standards and loan terms and conditions would be subject to HUD review and approval. HUD could negotiate changes to an agency's underwriting system prior to approving a State or locality for the program if such changes would improve upon the quality of the loans. (See section 257(e).) The HUD assignment program would not be available to mortgagors under the risk sharing program (see section 257(i)), and no property would be taken into HUD's inventory.

Risk sharing

The risk sharing method would be structured as follows:

The portion of the loan insured by HUD could not exceed an amount equal to the lesser of (a) 80% of the appraised value of the property, or (b) the maximum dollar amount HUD may insure under section 203(b) of the National Housing Act (the single family program limits) for the area (but not including any amount for mortgage insurance premium). (See section 257(g)(1).)

The total principal amount of the insured mortgage would have to exceed the maximum dollar amount HUD may insure under section 203(b)(2)(A) for the area, but could not exceed the conforming limit set by the Federal Home Loan Mortgage Corporation (currently $203,150). (See section 257(g)(2).)

The total amount of the mortgage could not exceed the amount determined in accordance with the rules applicable to the regular single family program under section 203(b)(2)(B), plus the mortgage insurance premium, except in the case of refinancing a mortgage previously insured under this new authority. Under section 203(b)(2)(B), the maximum would be the total of 97% of the first $25,000 of the appraised value of the property, 95% of the value in excess of $25,000 through $125,000 and 95% of any amount over $125,000. (See section 257(g)(3).)

In the case of default and foreclosure, the mortgagee would file an insurance claim with the State or local agency. The agency would pay the full amount of the claim owed to the mortgagee. If the loss on the insured mortgage exceeds the amount of insurance by the agency, the Secretary would reimburse the agency for the difference from the General Insurance Fund. (See section 257(h).)

Premiums on the loans would be shared by the Department and the State or local agency. The share paid to HUD could not be less than the amount necessary to cover HUD's risk and administrative costs. (See section 257(f).)

GNMA securitization prohibited

GNMA would be prohibited from securitizing any loans insured under this section. (See section 257(j).)

Definitions

The terms "State agency" and "local agency" would be defined to mean an agency of a State or locality which has the authority to insure mortgages and to participate with HUD in this program, or an agency or instrumentality of a State or local agency if the agency or instrumentality has such authority.

The term "single family property" would mean a property designed for occupancy by one family and would include a condominium and a cooperative.

The term "State" would mean the 50 States and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

See section 257(k) for the definitions.

Implementation

Under subsection (b), HUD would have the authority to implement the program by entering into risk-sharing agreements negotiated with State and local agencies. HUD does not anticipate publishing regulations or a notice to implement the program. Otherwise applicable FHA regulations would not apply to this special program, which is largely to be carried out under State designs.

Homeownership Counseling and Outreach

Section 306 would amend section 106 of the Housing and Community Development Act of 1968. The amendment would authorize the Secretary to enter into contracts for homeownership counseling and outreach with national, State, and community-based organizations or consortia of such organizations with demonstrated experience in reaching out to and assisting households who have not previously been in the homeownership market, or households who want to own but have previously been unsuccessful. It would authorize appropriations of up to $50,000,000 for section 106 counseling activities.

Under existing authority the Secretary will continue to award housing counseling contracts to HUD-approved housing counseling agencies. These contractors will deliver comprehensive or specialized housing counseling, such as prepurchase, default, and tenant counseling.

The new authority would authorize the Secretary to support community-based efforts to bridge the gap between housing consumers and the housing/mortgage markets. Specifically, it would consist of outreach activities by national, State, and community-based organizations to promote and expand the use of governmental and private housing programs by low- and moderate-income persons. It would include, but not be limited to, counseling educational and marketing efforts, with special emphasis upon homeownership under HUD programs. The new authority would also consist of efforts to establish ongoing working relationships between contractors and the housing and mortgage lending industries on a national and community basis.

The objective of the new homeownership counseling and outreach program is two-fold:

a. Reduce barriers to homeownership for low- and moderate-income persons, and

b. Encourage proactive efforts that increase homeownership awareness and homebuying by low- and moderate-income families by expanding access to mortgage markets and sources of mortgage credit.

Housing counseling is a HUD-supported and partially HUD-funded service that enables housing consumers to understand and use governmental and private housing programs to meet their housing needs and resolve their housing problems. These consumers include homebuyers, homeowners, and tenants. The proposed amendment to section 106 places a new emphasis upon homebuyer counseling that includes follow-up activities to assist homeowners to maintain and retain their housing.

Type of counseling currently funded

Since the inception of funding for counseling in 1972, HUD-approved housing counseling agencies have used HUD funding to provide comprehensive housing counseling. Comprehensive counseling includes, but is not limited to, the following types of counseling: pre-purchase, mortgage default, prerental and renter, and rent delinquency. Later, HUD added mortgage assignment and Home Equity Conversion Mortgage (HECM) counseling.

Supporting these types of counseling, agencies include such matters as housing selection, obtaining a mortgage, tenant-landlord relations, budgeting, debt management, credit-worthiness, and home maintenance. HUD Handbook 7610.1 REV-3 (6/93) provides additional details.

Expansion of counseling under the proposed amendment

Under the proposed amendment, the kinds of contracts funded would go beyond the provision of counseling sessions. The expanded efforts would remove barriers to homeownership and coordinate efforts between other programs designed to assist low-income persons to purchase homes. These activities would generally be undertaken in conjunction with programs of individual and group counseling by HUD-approved housing counseling agencies.

The competition for these contracts would be conducted on the basis of the merits of the proposed homeownership strategies and would take into account such considerations as the applicants' demonstrated ability and future plans, in addition to traditional comprehensive housing counseling, to carry out the following kinds of eligible activities:

(a) Leveraging Federal funds with other sources of funding to support activities under its counseling program, including leveraging private, community-based resources for the purpose of assisting prospective mortgagors achieve homeownership.

(b) Conducting outreach and marketing to prospective homebuyers, particularly those in targeted neighborhoods with a high proportion of low- and moderate-income and minority renter households. This activity would include determining the level of counseling assistance required for those responding to outreach efforts.

(c) Coordinating a proactive pre-purchase homeownership strategy that includes linkages with other HUD-approved counseling providers and community-based organizations. These efforts should include: assisting prospective homebuyers to repair credit, educating potential homebuyers on the requirements of homeownership, providing technical assistance, assisting in the packaging of mortgage loan applications, and matching a family's resources with appropriate Government and private sector homeownership assistance programs. Contractors would also be required to offer post-purchase and default-prevention counseling to help homeowners retain their homes.

(d) Serving as an advocate for homebuyers by working with the mortgage lending industry with regard to overcoming mortgage credit barriers to homeownership.

Applicants would not need to be current HUD-approved counseling agencies.

Example of Housing Counseling Program Advocacy and Outreach

Here is an example of how the proposed legislative authority for housing counseling could be used to assist in identifying and overcoming barriers to homeownership for low- and moderate-income homebuyers.

A local population of low- and moderate-income individuals and families in community "X" remain out of the homebuying market for a number of related reasons. This population lacks knowledge of Federal, State, and local homeownership programs, including FHA, HOPE, HOME, RTC, Section 8 homeownership assistance, bank foreclosed properties, bank CRA programs, and local downpayment assistance and other financial programs designed especially for that population. That population also lacks general information and skills needed for participation in the homebuying market. The local lending community, if knowledgeable about programs for low- and moderate-income housing consumers, makes no special effort to promote those programs among that population. Because of this situation, the need exists for advocacy and outreach that will make homeownership opportunities available to that population.

To address this sample situation (numerous other specific examples could be described), HUD would award a grant to an existing entity experienced in, and successful at, preparing low- and moderate-income housing consumers to take advantage of

homeownership opportunities. This effect would consist of two major aspects that could occur concurrently in a complementary fashion.

The grantee would work with all aspects of the local housing market—consumers, lenders, realtors, etc.—to actively educate the target population in homeownership programs and develop cooperative efforts by builders, realtors, and lenders to assure the availability of housing and mortgages.

In support of these homeownership promotional efforts, the grantee would assure the provision of a comprehensive prepurchase housing counseling program to the consumers. The details of the counseling are set forth in HUD Handbook 7610.1 REV-3 (6/93). This counseling would include post-purchase counseling that would assist the homeowners in such areas as budget maintenance, home repair, and delinquency/default situations to avoid foreclosure. The grantee could provide the counseling or assure that a HUD-approved housing counseling agency provides the counseling.

Although HUD's traditional comprehensive housing counseling program has provided prepurchase counseling to prospective homeowners, the bulk of counseling actually delivered has been default-oriented. The counseling has been structured to inform the decisions of individuals seeking to achieve homeownership and to minimize or cure the problems of defaults and foreclosures.

Prepurchase housing counseling to individuals, while beneficial, lacked any provision for proactively affecting the wider circumstances governing barriers to homeownership. Under the existing authorities, housing counseling agencies cannot be compensated for a variety of proactive works, such as community outreach, working with lenders on general mortgage credit issues, and working with various state and local agencies to bring about a more comprehensive program to advance the cause of homeownership.

Therefore, new legislation is needed to permit HUD to fund broader strategies of prepurchase counseling in conjunction with other efforts to promote homeownership.

Subtitle B—National Homeownership Fund Demonstration

Subtitle B would amend the National Homeownership Trust Demonstration to consolidate activities authorized under the program and to make the program more efficient.

The National Homeownership Trust Demonstration was authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990 and further amended in 1992. The demonstration was designed to provide certain assistance to first time homebuyers to allow them to purchase a home. Assistance included interest rate write downs, downpayment assistance, and second mortgages to facilitate homeownership affordability.

HUD's Budget for FY 1995 requests $100 million for the demonstration. The program is consistent with the Department's goal to provide homeownership opportunities to low and moderate income families. In order to make the program more effective, the Department is proposing a number of revisions to the program terms. These include:

Elimination of the Trust entity and its Board of Directors. The Program is funded through a direct appropriation and there is no need for a duplicative organization to administer the assistance funds. HUD plans to establish a grant program with State agencies and non-profit intermediaries.

Elimination of interest rate assistance. The problem most potential buyers face is with the downpayment. Assistance for interest rate buy downs tends to be more expensive than assistance or second mortgage assistance, and is administratively complicated and staff-intensive. Mortgages under the program will carry a rate negotiated between the buyer and lender. The program will still be able to be used in conjunction with Mortgage Revenue Bonds, but without any special terms or restrictions for such use.

Increased targeting to low and moderate income families. The income eligibility level for the program will be set at 80% of median income, as opposed to the 115% level currently authorized. In addition, the definition of first time buyer will be tightened to eliminate an exception for current owners whose property needs repair. Repair needs are able to be met with other Departmental programs, such as the Community Development Block Grant program.

Reduction of repayment requirements. Although repayment of assistance will continue to be required if the mortgagor ceases to use the property as a principal residence, the requirements for repayment upon sale of the property or upon an increase in the mortgagors income will be eliminated. This is because these are the most staff intensive requirements to administer and it is more efficient to simplify the program. In addition, because assistance will be limited to downpayment assistance and second mortgages (the terms of which will be established by the grantees), and interest reduction payments will not be an eligible form of assistance, the repayment provisions are not as critical to the success of the program.

Allocation of funds will be to States and non-profit housing entities on the basis of an application containing a plan that describes how the applicant will achieve the overall objectives of the Demonstration. The grant approach is highly efficient. Funding will be competitive each fiscal year. The Secretary would establish criteria for electing grantees, which would include the extent to which the applicant has experience in the provision of homeownership opportunities for low- and moderate-income households. The current termination date in the statute will be struck.

Subtitle C—Authorizations

Flexible Subsidy Program

Section 321 would authorize appropriations for each of fiscal years 1995 and 1996 for the Flexible Subsidy program at $50 million, and authorize continued use of the assets of the Excess Rentals fund for that purpose.

Service Coordinators in Multifamily Housing

Section 322 would authorize an appropriation for fiscal years 1995 and 1996 for $16,300,000 and $16,700,000, respectively, for service coordinators in the following federally-assisted multifamily housing programs:

Supportive housing for the elderly;

Supportive housing for persons with disabilities; and

Elderly or disabled families in—

Project-based Section 8 housing;

Section 236 projects; and

Certain section 221(d)(3) projects.

Limitation on GNMA Guarantees for Mortgage-Backed Securities

Section 323 would authorize an aggregate amount of loan principal to be guaranteed under the Mortgage-Backed Security program of $130,000,000,000 for each of fiscal years 1995 and 1996. Separate or additional authorization is not required for the new REMIC program since all GNMA REMIC securities will be based on and backed by mortgage-backed securities issued under GNMA's authority. While "costs" (i.e., the subsidy) are also authorized at such sums as may be necessary, it is not anticipated that there will be any such costs for the programs. Also, administrative costs for the program are estimated at $9,044,000, but separate authorization for this amount is not required.

Limitation on FHA Insuring Authority

Section 324 would authorize action in an appropriation Act to permit the Secretary to insure mortgages in an aggregate principal amount of $104,666,794,000 in fiscal year 1995, and $91,037,845,000 in fiscal year 1996.

TITLE IV—ECONOMIC OPPORTUNITY EXPANSION OF AFFORDABLE HOUSING

Subtitle A—Economic Opportunity

Economic Opportunities for Residents in HUD-Assisted Programs

Section 401 would provide for more effective implementation of section 3 of the HUD Act of 1968 by strengthening the Department's ability to enforce Section 3 and by supporting recipients' capacity to implement Section 3 through the creation of Economic Opportunity Centers (EOCs).

In addition to authority for the establishment of Economic Opportunity Centers, this proposal consists of the following specific changes to legislation.

(a) Amendment to section 3(c)(1)(B)(i) to add noncustodial parents of children living in public housing to the categories of persons with priority for Section 3 employment, if the noncustodial parent has a court-ordered or administratively-ordered and thus enforceable support agreement. Having a Section 3 job could allow that parent to make payments required by that agreement which he or she would not otherwise have been able to make.

(b) Authority for the Secretary to permit recipients of HUD assistance to expend program funds for job-related activities, such as training, supervision of trainees, and job recruitment, so that other HUD program resources can support the costs of implementing Section 3.

(c) Authorization of $25 million for FY 1995 to support the implementation of the Section 3 program, including the costs of technical assistance to HUD grantees for low-income persons.

$17.5 million is proposed to be reserved for the establishment of Economic Opportunity Centers (EOCs) to provide services necessary to link low-income residents with jobs generated by HUD-assisted projects. Although EOCs established with funds made available in FY 1995 would be colocated with Family Investment Centers (FICs), and PHAs would be the only eligible grant applicants during that year, the services offered by the EOC would be available to anyone eligible to benefit from activities under Section 3. Of approximately 75 sites receiving up to $500,000 in FIC funding, 35 of those sites would also receive a Section 3 grant of $500,000. The performance period would be 3-5 years. Applicants would submit proposals to be reviewed by the Department, which would then administer the grants.

$4 million would be authorized to establish and sustain employment and business initiatives with other Federal agencies, such as the Department of Labor, the Department of Health and Human Services, the Department of Commerce, and the Small Business Administration. Through an interagency agreement, the Department would transfer the HUD funds to other Federal agencies so that they could provide programs and services specifically tailored for Section 3 residents

and businesses. FHEO would administer these efforts.

$3.5 million would be authorized to be used for a Section 3 management and technical assistance program for the development of materials, systems, and information designed to enhance (i) the Department's capacity to manage Section 3 activities, and (ii) the capacity of public housing agencies, contractors, and other entities subject to Section 3 to comply with their responsibilities.

Section 3 mandates that HUD maximize jobs and other economic opportunities for low-income residents in connection with HUD-assisted projects. Despite the 1992 amendments designed to improve the law's effectiveness, the Department requires further legislative authority to fully achieve the Section 3 mandate.

Additional funding in support of section 3 activities

History and current experiences show that recipients and contractors need assistance in meeting their obligations. In addition, the intended beneficiaries need program support—such as training, education, child care, and transitional income—to address impediments to their employment. The proposal also recognizes the interrelationship of jobs for residents to the Federal government's overall welfare reform effort.

The lack of funds for training and providing job-related support for low-income residents has impeded the accomplishment of the Section 3 goal of linking low-income persons with jobs and other economic opportunities generated by HUD assisted projects. The new authority for the Secretary to permit use of HUD program funds for such activities will provide a vital tool to remedy this problem.

Public housing and other Section 3 residents have not fully participated in existing training, employment, and business development programs administered by other Federal agencies. Targeting and leveraging of existing funds will reduce duplication and enhance achievement of Federal, not just HUD, objectives for employment and training of low-income persons.

The Community Development Block Grant, HOME, Youthbuild, and other programs have funds specifically designated for the provision of technical assistance to program recipients and intended beneficiaries. The Department has never had such funds for the implementation of Section 3. The positive experience of providing technical assistance in Section 3 covered programs is evidence that funds for technical assistance are critical for achieving statutory objectives.

Priority for non-custodial parents

Uniform establishment of paternity and enforcement of child support agreements are two principles of the welfare reform movement. Housing policy can be used to reinforce these principles by including non-custodial parents of children living in public housing in the Section 3 priorities. Often, non-custodial parents fail to support their children, not because of a lack of concern, but because they are not employed. A Section 3 priority for these parents would offer opportunities to receive training and find reliable employment, thus enabling them to make support payments. This change in policy would also be supported by the rent reform proposal, which includes ceiling rents. This would reduce another disincentive to support payments—the family would not be penalized for the increase in income provided by the non-custodial parent's payments. In some cases, this might lead to reunification of the family.

Economic opportunity centers

A new initiative to establish Economic Opportunity Centers is the initial basis for an intensified, coordinated Section 3 training, employment, and contracting program. EOCs would be colocated with Family Investment Centers and coordinated with the public housing Comprehensive Grant modernization program. EOCs would provide services necessary to link public housing residents and other low-income persons with jobs generated by HUD-assisted projects. EOCs would link public housing residents with jobs generated by modernization activities. Homeless persons and all other section 3 residents would be eligible to receive services provided by the EOCs.

Initially, EOCs would be located within or near public housing developments and would be operated, either directly or under contract with another agency, by the PHA. In addition, proximity to transitional housing would be considered in the site selection of EOCs. The legislation would provide that State and local governments and their agencies and private organizations will be eligible for Economic Opportunity Center grants in the future.

The Department is seeking funds, beginning in FY 1995, to establish a grant program which would award funds made available under the Economic Opportunity Center program. In the first year of this program, funds would be awarded to PHAs and IHAs with Family Investment Center programs. The purpose of the Family Investment Center (FIC) program is to provide families living in public and Indian housing with better access to educational and employment opportunities that will help them achieve self-sufficiency. The EOC funds would be awarded to PHAs that agree to use their Comprehensive Grant modernization program as a vehicle for providing employment, training, and contacting opportunities and to use comprehensive grant funds to help pay the costs of the effort.

Grants would be awarded competitively to PHAs that demonstrate the capacity to assess training and support-service needs, develop or provide employment development skills to low-income persons, coordinate and utilize existing public and private training, employment, and business assistance funds or services, and perform such other functions as the Secretary shall approve. The applicants would be required to demonstrate working relationships with unions or other construction trade associations. Participation in the Step-Up program would be one way of meeting this requirement.

In addition to activities funded by FICs, Economic Opportunity Centers would include the provision of financial and other assistance to individual residents to allow access and retention of residents into existing and newly created job training and employment. The following types of services would be offered:

Developing facilities for training and support services;

Assessing training and service needs of public housing residents;

Funding essential training and support services that cannot otherwise be paid;

Maintaining a "job bank" of positions connected with CDBG, Homeless Assistance, HOME and other Section 3- covered project recipients and contractors, as well as listings of jobs available in the private sector;

Assisting construction contractors, contractor associations, and joint labor-management committees and funding for developing Step-Up and other training and apprenticeship initiatives;

Training and funding resident councils, resident management corporations, neighborhood groups, and nonprofit organizations to provide information to residents and businesses about the requirements of Section 3 and available economic opportunities;

Funding businesses' start-up costs; and

Providing space, resident referral, and otherwise providing linkages with training funded through the Department of Labor/Job Training Partnership Act, child care services funded through the Department of Health and Human Services, and business development and assistance programs funded through the Small Business Administration and Department of Commerce. In addition, space also may be made available for services provided by non-profit organizations such as Opportunities for Industrialization Centers, the Urban League, and the National Service Commission.

Resident Management/Tenant Opportunity Program

Section 402 would make several amendments to the Resident Management program under section 20 of the 1937 Act.

(1) New Name and Expanded Use of Assistance.—This proposal would change the name of the program from "Resident Management Program" to "Tenant Opportunity Program (TOP)". The new name reflects the expanded scope of assistance under section 20(f) proposed by this section.

(2) Expansion of Current Program.—This proposal would expand the scope of the existing program under section 20(f) that currently provides financial assistance to resident management corporations (RMCs) and resident councils (RCs) to obtain technical assistance for the development of resident management entities, the development of the management capability of newly formed or existing entities, and the identification of the social support needs of residents of public housing and the securing of such social support. In addition to such technical assistance funding, HUD would be authorized to provide assistance to RMCs and RCs in support of a wide variety of activities for economic uplift which are sponsored by resident organizations, such as job training, economic development, security, and other self-sufficiency activities beyond those related to the management of public housing developments.

Many resident organizations, initially funded under section 20(f) for the purpose of exploring the feasibility of resident management of public housing or for developing resident capacity so that such management might be possible, have come to believe that their efforts are best focussed directly on programs for self-sufficiency and economic uplift, whether or not such programs are likely to result eventually in resident management of public housing. It is time to amend the 1937 Act to reflect this broader purpose of the program, while retaining all the rights and protections initially granted by the statute to resident organizations which want to manage public housing.

(3) 10% Set Aside.—A set-aside of up to 10% of the amounts made available under section 20(f) would be established to permit HUD to enter into contracts with (a) various entities for monitoring, providing technical assistance, and disseminating information designed to improve the effectiveness of the program as a whole, and (b) PHAs, resident organizations, and public or private entities for innovative public/private initiatives for

economic development and increased self-sufficiency of public housing residents. Eligible activities related to economic development and increased self-sufficiency would include such programs as counseling, treatment for substance abuse, child care, remedial education, job training, and development of resident businesses.

The 10% set-aside would enable the Department, through contracts, to provide better quality and more proactive training and monitoring, which is especially important because of the shortage of HUD field staff. It is envisioned that such technical assistance would generally be provided by qualified local entities such as universities, not only resident organizations. This proposal also would fund resident organizations, PHAs, and private for-profit and non-profit organizations to conduct activities which would create, directly or indirectly, greater economic opportunity for public housing residents. The ability to provide some HUD funding for economic development would leverage investment from the private sector.

(4) Joint Application With PHA.—The proposal would give RCs and RMCs the option of applying jointly with a PHA for TOP grants under the regular (non-set-aside) program. Under current law, a PHA may join in an application from an RC or RMC but may not be the grantee.

This fourth component of this proposal would authorize joint application for funds under the regular program (not the 10% set-aside) by a resident organization and the PHA. A PHA may apply for assistance only if the resident organization approves and is a joint applicant. Joint planning and program development by resident organizations and PHAs creates a strong partnership for the development of resident management and other related public housing and self-sufficiency activities, and should be permitted and encouraged. Resident entities that submit applications with evidence of a strong partnership with the PHA now receive extra points in the competition. This proposal would further encourage resident/PHA partnerships. In some cases, it will be appropriate for the PHA to be the grantee.

(5) Increase Maximum Amount of Assistance.—The maximum amount of financial assistance under section 20(f) would be increased from $100,000 to $250,000.

This amendment would increase the maximum amount of financial assistance with respect to any public housing project grant amount from $100,000 to $250,000. It is necessary to increase the grant limit because the current maximum amount has proven to be too low to provide enough training and mentoring for residents to operate self-help projects.

(6) Funding Authorization.—The proposal would authorize $85 million for activities under the TOP program, from amounts made available for the modernization program.

This program applies to PHAs, including IHAs.

Subtitle B—Section 8 initiatives

In an effort to expand housing opportunities for low-income Americans, the Department of Housing and Urban Development has developed new initiatives within the section 8 tenant-based program, which currently consists of the Certificate and Voucher programs. For 20 years, this program has reflected a successful partnership between the Federal government and the private sector that has helped millions of people find housing in many thriving communities throughout the country. This year, HUD has developed new proposals to increase housing choice for tenants by building on the most successful elements of this program.

Before 1974, low-income families needing housing assistance faced limited choices—either government-owned or government-subsidized housing projects. The Section 8 tenant-based program has brought new meaning to the term "housing choice." Since the inception of this program, millions of assisted households have been able to choose among a wide range of neighborhoods offering quality housing at a reasonable price.

Over the years, however, the program has become extremely complex, with the addition of a large number of legislative mandates and regulatory constraints on the behavior of PHAs, landlords, and families. The greatest of these problems may be the existence of the separate, but similar, Certificate and Voucher programs. The existence of two separate programs places unreasonable burdens on the public Home agencies that administer tenant-based assistance. The Department is about to publish for effect a regulation that, to the extent feasible under current law, streamlines the programs, gets rid of unnecessary distinctions between certificates and vouchers, and makes tenant-based assistance more user-friendly. As one important example, this regulation will simplify the system for administering the provisions of the certificate and voucher programs that make assistance portable across jurisdictional lines. But this regulation cannot go far enough in clearing away impediments to good program administration without legislative changes.

A combination of statutory problems and persistent patterns of spatial separation by race and income has meant that tenant-based assistance has not achieved its full potential for assuring metropolitan-wide access to housing. In particular, owners of rental housing in good condition and in good neighborhoods are able to market their units to unsubsidized tenants and may be reluctant to get involved with a government program. This is aggravated by program rules that impose restrictions on the future use of property that are not part of the normal landlord-tenant relationship.

Finally, families often do not understand the choice of housing options that the program offers, and fail to take advantage of these options. The Department must overcome these and other programmatic impediments to enable low-income families to take full advantage of the Section 8 program benefits.

The Department has prepared a series of legislative proposals to reform the Section 8 program and to ensure its long-term viability. These proposals feature a fundamental delegation of responsibility and accountability to those whose daily lives are affected by the program: landlords, and most importantly, the families themselves.

Many of the provisions will allow more assisted families to live in communities with viable local institutions that provide high quality essential services. For instance, HUD is proposing to merge the Certificate and Voucher programs into a single integrated Certificate program that features the best elements of each. Program rules would encourage families to negotiate their rents within reasonable parameters instead of imposing an arbitrary limit on their rental contributions. The Department also has developed an enhancement initiative (Choice in Residency) that will enable families to understand that their housing choices include a broad range of communities, including parts of the metropolitan area that they may not have considered accessible to them. In addition, HUD has proposed a technical amendment that would eliminate barriers impeding the use of certificates in single room occupancy (SRO) units.

Job opportunities, family circumstances, and other factors often encourage families to move. The Clinton Administration believes that tenants should have the flexibility to use their Section 8 certificates and vouchers in other jurisdictions when these circumstances arise.

The merger proposal will benefit PHAs as well as families by eliminating the paperwork burden required for two separate programs and the needless administrative work associated with explaining two sets of similar but different program rules to participating families and to landlords. The merger proposal has been developed on the basis of extensive consultation with PHAs to identify the best features of each program. For example, the merger will empower PHAs to adjust payment standards based on local market conditions, a provision of the current voucher program that PHAs believe has helped them respond to the rapidly changing market conditions of the late 1980s.

The private sector landlord is the linchpin of the Section 8 program. Without a broad network of participating landlords representing a range of neighborhoods, building sizes, and unit types, the Section 8 program cannot house assisted families effectively and help them through the social and economic transitions identified throughout this legislative package. The Choice in Residency initiative is designed to maintain and cultivate landlord participation in the Section 8 program. While the program would provide families with counseling and support services to expand their housing search outside of "traditional" housing markets, the plan also would include an aggressive effort to recruit new landlords into the program. In addition to making new neighborhoods available to the program, a broader range of housing units from which to choose should make it possible for families to choose better quality housing at more competitive prices.

Many private sector landlords do not participate in the Section 8 program because it diverges from the traditional landlord-tenant relationship. HUD has developed a series of provisions that would make Section 8 participants similar to other tenants and overcome this barrier. For example, the Department will no longer require landlords to provide 90-day notice when they terminate their section 8 contract. Finally, the Department proposes to drop the current requirement that landlords offer all units to Section 8 renters if any one unit is made available to a program participant.

The Department is developing a homeownership certificate program, as authorized by section 8(y) of the 1937 Act, to complement the Section 8 rental tenant-based program. Recent research indicates a clear relationship between homeownership and improved social outcomes for children.' HUD understands the benefit of homeownership and soon will publish a proposed rule for this initiative. Through this effort, the Department hopes to build upon the housing choices afforded through the Section 8 rental Certificate and Voucher programs and provide eligible families with even greater housing opportunities.

When combined with the "entrepreneurial PHA" demonstration provisions and several streamlining efforts included elsewhere in the legislative package, these initiatives truly represent a new way of doing business

with HUD's partners—one that emphasizes performance and customer service over paperwork and bureaucracy. The following sections provide detailed information on the Choice in Residency initiative and the Certificate and Voucher program merger proposal.

Choice in Residency

Introduction

Pursuant to section 411, the Department proposes to provide funding to facilitate enhanced metropolitan-wide housing search under the Choice in Residency initiative. The effort would involve two prongs:

Families would receive counseling and other assistance to increase their knowledge of housing opportunities throughout a community, and ensure that they can act on their locational choices. Rather than concentrating in low-income neighborhoods, families participating in the Section 8 and other assisted housing programs would be encouraged to widen their horizons.

Landlords across communities would be encouraged to participate in the Section 8 program, further enhancing housing choices. Without a large and diverse network of participating landlords representing a wide range of neighborhoods and unit types, the Section 8 program cannot effectively house assisted tenants, and help propel them through the social and economic transitions which are identified throughout this legislative package.

The program would be funded at $149.1 million for FY 1995 and $152.9 million for FY 1996.

Awards for Choice in Residency counseling and related services would be made directly to public housing agencies (PHAs) on an invitation basis, and competitively to PHAs or nonprofit organizations, or both. PHAs receiving awards on an invitation basis would generally arrange for experienced nonprofit organizations to provide these services directly to the families. HUD would identify these communities through a simple formula by, for example, using the size of the metropolitan area as a proxy for the likelihood that low-income families need help in recognizing the full range of housing opportunities available to them. The Department would anticipate that PHAs and nonprofit organizations from large and small, rural and urban communities would compete for the other funds available through the program. The Secretary would annually determine the allocation of funds between the two allocation mechanisms.

Choice in Residency would provide individual counseling to families applying for or already receiving tenant-based assistance under the Section 8 Certificate and Voucher programs, including homebuyers under the program's homeownership provisions. Activities would include, but would not be limited to:

Strategies for a successful housing search;

Transportation assistance and other services to assure access to low-poverty tracts;

Information and counseling as the families adjust to their new environment; and

Aggressive outreach to property owners to expand the availability of housing outside of high poverty census tracts.

Because the assistance will be made available to families who are currently assisted and may want to consider other housing options, it has the potential over time for reaching a very large number of families. Currently there are 1.3 million families using Section 8 certificates and vouchers. The level of counseling and related services provided to each will vary depending on needs and circumstances, but as many as 200,000 families could be assisted annually.

Once a PHA has been invited to participate in the Choice in Residency program, failure to apply or successfully implement a Choice in Residency program could adversely affect the PHA's ability to obtain future allocations of incremental assistance under the merged Certificate program. HUD would consider failure by a PHA to apply for participation in the Choice in Residency program and effectiveness of Choice in Residency counseling when reviewing the PHA's future funding applications for incremental Certificate assistance. Performance criteria would be developed, including measures such as tenant characterizations of the counseling they received from the program, increasing success rates for certificates in non-traditional neighborhoods, increased program participation by landlords, increased numbers of neighborhoods represented in the program, and reduced numbers of assisted families living in high poverty census tracts.

The Department assumes that PHAs would ordinarily implement these responsibilities through contracts with nonprofit organizations. PHAs invited to participate in Choice in Residency could, however, demonstrate to HUD their capacity to administer activities directly.

For awards made on a competitive basis, HUD could conduct separate competitions by geographic area (e.g., metro and nonmetro) or by size/type of awardee. Such determinations would be made in annual Notices of Funding Availability (NOFA). The NOFA would also provide criteria for awarding funds.

When making funding determinations on either an invitation or a competitive basis, the Secretary could take into account the extent of local matching funds identified in the application for assistance.

Awards would be made for a fixed amount of dollars associated with the provision of counseling services, to be carried out over a specified period. For awards made to PHAs, the PHAs would be responsible for all aspects of Choice in Residency implementation, including monitoring of nonprofit organization activities (as applicable). PHAs and nonprofit organizations would be required to comply with HUD reporting requirements.

The Section 8 tenant-based assistance provided to low-income families under the Certificate and Voucher programs offers access to housing located throughout the State of the PHA issuing the certificate or voucher, and certain metropolitan areas in adjacent States. With some limitations, families receiving assistance under the Voucher program are allowed to use the subsidy nationwide. Despite these opportunities to rent housing throughout large geographical areas, there are barriers to the successful use of this assistance. These barriers include:

Landlord reluctance to participate in Federal housing programs;

Discrimination on the basis of race, ethnicity, family status or the assisted status of the family;

Reluctance on the part of some families to move from poverty-concentrated areas to higher income areas; and

Difficulty finding housing within the maximum rents allowed in the Certificate program or within acceptable rent burdens for voucher families.

Under the Certificate and Voucher programs as currently administered, the PHA is responsible for assisting low-income families during their housing search, and also for conducting outreach to landlords to assure broad availability of housing in a wide range of neighborhoods. However, the quality and extent of this counseling is uneven, and the PHA's area of operation often stops at the city limits, as opposed to the entire metropolitan area. While the Certificate and Voucher programs have successfully broadened residential opportunities for low-income families (especially when compared with public housing and other project-based programs), these programs have not come close to reaching their full potential for promoting increased mobility. Choice in Residency offers participating families significantly expanded choice as well as meaningful support so they can act on these choices.

Some families, particularly those in high poverty communities, will choose to move to neighborhood where they will have better access to jobs, and less concern about their safety and the quality of schooling. Families that use their Certificates and Vouchers to live in distressed neighborhoods avoid high rent burdens, but they lack some basic amenities: community services, safety from violence, neighbors who serve as positive role models for children, and access to good jobs. Experience with housing assistance offered in combination with support for metropolitan-wide housing search suggests that it can provide long-term benefits for low-income families, especially families with children.

The FY 1995 Budget proposal to reduce Fair Market Rents (FMRs) applicable in the Section 8 program from the 45th percentile of private market rents to the 40th percentile will cause a reduction of approximately 3% in FMRs. This policy change need not have any detrimental impact on the success of Choice in Residency. HUD has proposed that the authority to grant exceptions to FMRs be retained. This authority allows HUD to approve rents for a part of a metropolitan area (such as a jurisdiction or group of jurisdictions) by as much as 20% above the FMR. HUD intends to carefully monitor the use of locality exception FMRs and to encourage PHAs to request use of this authority where appropriate and especially where needed to further the objectives of Choice in Residency.

Merger of the Certificate and Voucher Programs

Section 412 would merge the existing Certificate and Housing Voucher programs into a single Certificate program under a revised section 8(o) of the U.S. Housing Act of 1937. The project-based Certificate (PBC) program would be moved from section 8(d)(2) to section 8(o)(13). This proposal would also make necessary conforming and technical changes and repeal obsolete and unnecessary provisions. The merged program would use section 8(o) rather than 8(d) as the starting point because the Voucher program legislation is more recent and covers a number of areas of program administration that had arisen since the Certificate legislation was first enacted in 1974. Section 8(d) would be retained since it will continue to apply to other section 8 project-based existing housing programs.

New certificate program

Subsection (a) would establish the new, merged program—called the Certificate program—in an amended section 8(o). The following references to the provisions of section 8(o) refer to the proposed version, except where noted.

Authorization and payment standards

Section 8(o)(1) would provide the basic authorization for HUD to provide assistance

under the new merged program. It is based on the existing section 8(o)(1), amended to make explicit that the payment standard could not exceed the section 8 existing housing FMR, or, in a sub-market area, 120% of the FMR. HUD could require a PHA to submit proposed payment standards for approval. This would give HUD a tool to assure that PHAs do not set payment standards too high or too low.

The payment standard feature would allow PHAs to establish payment standards below the HUD-established FMRs to reflect local rents, or to assist more families by providing a shallower subsidy. PHAs could react more quickly to changing real estate prices than is possible under the current Certificate program FMR system. PHAs would continue to determine that every contract rent is reasonably based on the rents of comparable units.

HUD is concerned that some PHAs may set artificially low payment standards which do not reflect local rental rates and that low-income program participants would be forced to pay excessive rent burdens. Accordingly, HUD intends to closely monitor rent burdens and review any payment standard that results in more than 50% of the families in any bedroom size paying more than 30% of adjusted income for rent. HUD could require PHAs to modify the payment standard based on the review results. Another protection against excessive rent burdens would be the requirement that families cannot pay more than 40% of adjusted income for rent when they first received assistance or move to a new unit (see proposed section 8(o)(3)).

HUD would be authorized to establish a review process by which it would review PHA plans to adopt a higher payment standard for a designated part of the market area, such as for a locality or part of a county. This review process would be similar to the process now used by HUD in reviewing and approving locality exceptions to FMRs.

Rental assistance

Section 8(o)(2) would establish formulas for determining rental assistance. The assistance payment where the rent does not exceed the payment standard would be the difference between the rent and the family share of the rent. The family share is the same as for all other section 8 programs, except for the current Voucher program. Under the formula, a family would pay the highest of 30% of adjusted income, 10% of gross income, and welfare rent. Where the rent exceeds the payment standard, the assistance payment would be the difference between the payment standard and the family share. This means that the family would be responsible for paying any amount by which the rent exceeds the assistance payment. The formula for providing assistance for families using assistance under the new Certificate program under the tenant-based homeownership program authorized by section 8(y) of the 1937 Act would be amended to be comparable to the formula for tenant-based rental assistance.

However, the total amount a family could pay towards rent at the time it initially receive assistance with respect to any one unit (that is, for the family's first unit under the program and whenever a family moves to another unit) could not exceed 40% of its adjusted income (see subsection (o)(3)). Families under the PBC program would continue to pay rent in accordance with the regular section 8 tenant rent formula under section 3(a)(1), and assistance payments for the family would continue to be determined in accordance with section 8(c).

The housing assistance payment for the new Certificate program is modeled on the subsidy formula for the current Certificate program in that it does not include a shopping incentive for families who rent units that cost less than the payment standard. It is modeled after the current Voucher program in that it permits any family who chooses to do so to pay more than 30% of adjusted income for units renting above the payment standard.

The voucher payment standard approach to determining whether families can choose to pay more than 30% of adjusted income is being proposed because it allows increased housing choice, and in particular will permit families to move to neighborhoods in which there are better job and educational opportunities. However, the merged program would include new features that are being proposed to provide increased tenant protection and prevent rent gouging by owners.

HUD considered establishing a cap on the family's rent burden in relation to family income, not just for the initial receipt of assistance, but for any time during the subsidy period. HUD rejected that idea because such an action might discourage owner participation because the subsidy could be terminated for reasons over which the owner had no control. In addition, a continuing rent cap could harm a family by withdrawing rent subsidy when family rent burden goes over the cap even with the subsidy. Moreover, there is evidence from research on the tenant-based Section 8 programs that suggests that this additional control may be unnecessary. When voucher holders were recertified, the rents increased *less* than the year-to-year increase in the FMR, so that families who were paying more than 30% of income found their rent burdens shifting down towards 30% over time.

HUD also considered restricting the number of program participants who could pay more than 30% of income for rent, as does the current law for the Certificate program, which permits only 10% percent of the families in a PHA's incremental assistance program to do so. This option was not selected since it would be difficult for PHAs to choose which families could exercise an option to pay a higher rent, and it was determined that this should be the sole choice of the family.

The shopping incentive provision of the current Voucher program, which lets families pay less rent if they lease a unit renting for less than the payment standard, would be deleted. It is costly and, in about one-third of the cases, is provided to families who don't necessarily shop for the best buys, because they use the assistance for the units they already occupy. Further, there is no evidence that the shopping incentive helps accomplish its intended purpose of preventing rent inflation.

Eligibility

Under section 8(o)(4), as under current section 8(o)(3)(A), very low-income families and families previously assisted under the 1937 Act could receive a certificate. In addition, families with incomes up to 80% of the median income for the area could receive assistance in certain cases. The new program does not use the voucher model, which identifies specific categories of families who may receive a voucher even if their income is above 50% of the area median (but no more than 80%), such as families that qualify to receive a voucher in connection with a HOPE homeownership program. The voucher model is too narrow and complicated and cannot cover all categories of families that should be included since that list will continue to change over time. Instead, HUD would establish eligibility criteria for families with incomes above 50% of the area median and up to 80%. Providing for exceptions specified by HUD through regulations would allow a more flexible vehicle for granting exceptions to appropriate categories of families without having to seek legislative change each time an appropriate exception arises.

Preferences

Section 8(o)(6) would adopt the Federal preferences now in section 8(o)(3)(B). However, the list of examples of local preferences permitted for up to 10% of the tenant-based assistance and 30% of the PBC assistance (or a higher percentage if HUD determines necessary or appropriate) would delete a reference to families in accordance with section 8(u)(2) (rental rehab families and families under the FmHA section 533 program), since funding of the Rental Rehabilitation program has been discontinued. PHAs could continue to choose to give a local preference to families under the section 533 program.

Retention of the program provision allowing HUD to permit PHAs to apply local preferences for more than 10% of the assistance, for good cause, would give PHAs the ability to address pressing local concerns in exceptional circumstances.

Inspections for HQS compliance

Section 8(o)(7) would include the current Voucher and Certificate program requirements for a PHA to inspect units to assure they meet housing quality standards.

Vacancy payments

Section 8(o)(8) would retain the current provision in section 8(o)(4) that if a family vacates a unit, no assistance payment may be made with respect to the unit after the month during which the family vacated the unit, with one amendment. The reference to "expiration of the lease term" would be removed because it is misleading. In effect, the owner retains the housing assistance payment for the month in which the vacancy occurs.

Repeal of 5-year ACC term requirements

The first sentence of section 8(o)(5) of current law would not be included. That section includes a requirement that the initial term for an ACC under the voucher program must be 5 years. There is no such limitation for the Certificate program, and no reason to retain it here.

HUD intends to continue most initial funding for a five-year term, but may require the flexibility to provide funding for a shorter term for leveling out of the program funding increments.

Cooperatives and mutual housing

The provisions for cooperative and mutual housing in section 8(o)(7) would be deleted because they are no longer necessary now that a tenant-based section 8 homeownership program is available to low-income families under section 8(y). The homeownership program provides a broad authorization for use of section 8 tenant-based assistance for homeownership, including cooperatives and mutual housing. However, section 8(y) is being revised to allow participation of families who already own their cooperative or mutual housing units. This revision is necessary so that cooperative homeowners who are not first-time homebuyers would continue to be eligible for section 8 subsidies if the other requirements of section 8(y) are met.

Adjustments of payment standards

Section 8(o)(9) would authorize a PHA to adjust its payment standards to assure con-

tinued affordability for families receiving tenant-based assistance. This is a revision of the first sentence of section 8(o)(6)(A) of current law, designed to reflect HUD's current interpretation of its intent. The section 8 rent adjustment provisions used for the existing Certificate program would not be retained, except for the PBC program, which would continue to provide for rent adjustments in accordance with section 8(c) of existing law.

Section 8(o)(6)(B) of existing law would be repealed. That section requires each ACC to be in an amount equal to 115% of the estimated aggregate amount of assistance during the first year of the contract. HUD intends to continue this practice, but believes that the statute should not mandate this since it could become appropriate to reserve higher or lower amounts.

Adjustment pools

Section 8(o)(8) would not be amended, but would be redesignated as section 8(o)(10). That section authorizes HUD to use up to 5% of available budget authority as an adjustment pool, to support higher subsidy needs where a PHA adjusts its payment standards as permitted by section 8(o)(9).

Deletion of obsolete provision

Section 8(o)(9) of existing law would not be retained, since it is unnecessary. It authorizes HUD to enter into contracts to provide vouchers for replacing public housing transferred under the HOPE 1 program.

Rent reasonableness requirements

Section 8(o)(11) would apply the rent reasonableness requirements applicable now to the voucher and certificate programs to the merged program. The special rule in the penultimate sentence of section 8(c)(1) for determining rent reasonableness for units that are exempt from local rent control would be repeated here.

Assistance for manufactured homeowners who rent pads

As permitted for both the existing Certificate and Voucher programs, section 8(o)(12) would provide for rental assistance to families who own a manufactured home and rent the real property ("pads") on which it is located. PHAs would establish a payment standard, which could not exceed an amount established or approved by HUD. Sections 8(o)(11)(C) through (E) of existing law would be deleted. They are not necessary to carry out this aspect of the program.

The calculation for the subsidy payment to manufactured home owners who own their home but who rent a pad would be revised to provide a more generous subsidy amount based on a less complicated subsidy formula. This calculation would make the subsidy determination like that used to determine the housing assistance payment for other tenant-based units in the merged certificate program by basing the subsidy on the real property rented, plus an allowance for any tenant-paid utilities. The mortgage payment in the original formula would be eliminated because it has little if any impact.

HUD intends to rely more on local rental cost data for manufactured home pads in lieu of establishing separate FMRs for pads. The 40% rent burden limit and the rent reasonableness requirements would be the same as for the tenant-based program.

Project-based certificate program

Section 8(o)(13) would contain authority for the PBC program now contained in section 8(d)(2).

The current PHA option to project-base some of its certificate units is being retained in the merged program. There are two principal differences between the current PBC program and the PBC program under the merged program.

First, the percentage of units which could be project-based would include both "old" and merged certificate units and the "old" voucher units in the 15% maximum per PHA, which increases the total number of units a PHA could choose to project-base since current law limits the number to 15% of certificates and does not apply to Vouchers. This also simplifies the program since a PHA can easily determine what its limit is by calculating 15% of the total funding for its program.

Second, the provision in section 8(d)(2)(D) concerning owner tenant selection policies has been deleted. It is unnecessary since PHAs have HUD-approved tenant selection policies which they use to refer applicants to owners.

Section 8(c)(3)(A) establishes the amount the family contributes toward rent. Families may not pay more than the amount determined under the rent formula in section 3(a)(1). For PBC units, there is no exception to this rule.

The provisions now contained in section 8(d)(2) would be slightly reorganized and broken into more subparagraphs for easier understanding. In addition, an error in existing section 8(d)(2)(B) would be corrected. Section 8(d)(2)(B) authorizes a PHA to approve the attachment of assistance with respect to newly constructed structures if, as provided in clause (ii), the aggregate assistance provided by the PHA pursuant to the new construction authority and "the last sentence of subparagraph (A)" does not exceed 15%. When Congress amended subparagraph (A) in section 613(a) of the Cranston-Gonzalez National Affordable Housing Act, to add sentences to the end of subparagraph (A), it did not correct the cross reference in subparagraph (B) to the last sentence of subparagraph (A). That sentence, before NAHA, permits a PHA to permit attachment of certificate assistance to rehabilitated projects with respect to no more than 15% of the PHA's assistance. The error would be corrected by combining the authority for project basing of rehabilitated and newly constructed units in the proposed section 8(o)(13)(A). The aggregate amount of such assistance could not exceed 10%.

Inapplicability of section 8(c)

Under section 8(o)(15), section 8(c) would be made explicitly inapplicable to the merged Certificate program. For the most part, this simply clarifies that the miscellaneous requirements of subsection (c) do not apply to the program. Some explanation, however, is appropriate.

Section 8(c)(8) should not apply to the merged program because owner notifications of rent increases prior to HAP contract expiration are not necessary for a tenant-based subsidy program, and owners cannot opt out of PBC HAP contracts because extensions of PBC HAP contracts are at the sole option of HUD and the PHA. An amendment to section 8(c)(8) to exclude the merged program is included in subsection (e)(6).

Section 8(c)(9) would be made inapplicable to the new program (see subsection (e)(7)). A 90-day termination notice is not necessary for the tenant-based Section 8 Certificate program since families may move and continue to receive assistance when a HAP contract is terminated by the owner for business or economic reasons. Participation in the tenant-based section 8 Certificate program is voluntary for landlords, and the notice requirement hurts the program by discouraging owner participation. It also imposes a massive, but meaningless, paperwork requirement on the Department, PHAs, and owners in a time of scarce staff resources by involving HUD in the owner's termination of HAP contracts for individual tenants. The existence of grounds for eviction should not be determined by HUD or the PHA, but by the State landlord/tenant court.

Owner termination notices also are not necessary for PBC units since NAHA amended section 8(d)(2)(C) to require that the HAP contract allow extensions. The contract must obligate owners to have such contract extensions accepted by the owner and the owner's successors in interest. Accordingly, the requirement that the owner provide one-year notice of termination to allow HUD to adjust contract rents in order to avoid the termination is unnecessary. The only owners which would be able to terminate section 8 PBC contracts are those which HUD and the PHA agree are undesirable and owners for which there is insufficient funding for contract extensions.

Portability

Subsection (b) would amend section 8(r) to confirm that HUD may reserve amounts available for the new Certificate program to compensate PHAs which issue certificates to families that move into the jurisdiction of the agency holding a certificate or voucher issued by another PHA.

In addition, a family that moves out of an assisted unit in violation of its lease would not be eligible to move to another jurisdiction under portability procedures. Some certificate and voucher participants have moved outside the initial PHA's jurisdiction several times in the same year, in violation of the initial one-year lease term. This practice would be prohibited under the new Certificate program.

Repeal of requirement that owners of multifamily housing projects lease to certificate and voucher holders

Subsection (c) would repeal the requirement in section 8(t) that once an owner of a multifamily housing project enters into a section 8 HAP contract, the owner may not refuse to lease any available unit in any project of the owner because the family holds a section 8 certificate or voucher.

This provision would be repealed because it imposes a requirement which is contrary to maintaining normal landlord-tenant relationships which are key to the success of any tenant-based program. The provision is a major disincentive for owner participation in the program. As a result of the current requirement, many nonparticipating owners are unwilling to rent to any family under the Certificate or Voucher programs. Owners fear charges of discrimination and legal action even if they refuse to lease to a section 8 family for reasons other than their participation in the section 8 program. Since it is often easier and more desirable to simply rent to an unassisted person in the private market, section 8(t) has the effect of reducing the number of choices available to section 8 families rather than protecting families.

Homeownership option

As described above, subsection (d) would amend the homeownership option authority in section 8(y)(1)(A) to authorize a family to receive section 8 assistance for homeownership through ownership of shares in a cooperative housing, whether or not the family is a first-time homeowner.

Section 8(y)(1)(B)(i) currently allows families participating in the FSS program to par-

ticipate in the homeownership program regardless of income. This is problematic because an FSS family may lack sufficient income to meet the responsibilities of homeownership. Since an adequate income is critical to a family's successful participation in the homeownership program, the FSS exception would be amended to allow FSS participants with incomes below the threshold to participate only if the PHA determines that the families have sufficient resources. Of course, FSS graduates or participants that meet the income thresholds can still participate in the homeownership program.

Finally, the assistance formula for families receiving assistance for homeownership would be amended to be comparable to the proposed formula for tenant-based rental assistance, described above.

Technical and conforming amendments; deletion of obsolete and unnecessary provisions

Subsection (e) would contain miscellaneous technical and conforming amendments. In addition, obsolete and unnecessary provisions would be repealed. For example—

1. The second sentence of section 8(b) would be repealed. The original purpose of this ACC provision was to require HUD to provide funding for identifiable periods instead of merging "new" certificate units with "old" certificate units and establishing an identical ACC term for all units. HUD has discontinued this practice by providing a consolidated ACC with specified terms for each increment of units. (subsection (e)(2))

2. Section 8(c)(5) would be repealed because it applies to the development of Section 8 new construction and substantial rehabilitation projects and is, therefore, obsolete. (subsection (e)(5))

3. Section 8(n), single room occupancy, would be repealed. SRO units provide a desirable affordable housing alternative in many communities. All units leased under the Certificate program must meet the HQS and the other program requirements. Like other section 8 units, SRO units are not exempt from local codes, and section 8 subsidies are not provided unless program requirements are met and participants actually occupy the units. Therefore, the special SRO certifications, demand justifications, and approvals by the PHA and local government in section 8(n) are unnecessary. (subsection (e)(12))

4. Section 8(d)(1)(A)(i) would be amended to delete the provision that a family otherwise eligible for assistance under section 8 may not be denied preference under the certificate program solely because the family resides in public housing. In addition, the merged Certificate program would not include such a provision. HUD has interpreted this section as permitting a family residing in public housing that qualified for a Federal preference when it moved into public housing and that was on the Section 8 waiting list when it moved into public housing, to retain the Federal preference status for section 8 (i.e., its place on the certificate and voucher waiting list), even though the qualifying condition no longer exists.

The Department believes that this provision should be repealed primarily for reasons of equity. When there are families with Federal preferences on the Section 8 waiting list (such as families who are homeless or who have high rent burdens), there is no justification to delay assistance to those families while providing tenant-based Section 8 assistance to families who are adequately housed in public housing. The provision inaccurately and unfairly characterizes all public housing as inferior to Section 8. Implementation of this provision would also cause increases in PHA public housing expenses associated with turnover vacancies.

If the public housing family is living in a substandard public housing unit, the family would qualify for a Federal preference for tenant-based Section 8 assistance. Therefore, under current regulations, a family inadequately housed in the public housing program has preference status for certificates and vouchers. We believe that the concern the amendment addresses is addressed under current regulations.

Subsection (f) would make technical, conforming amendments to statutes other than the United States Housing Act of 1937.

Implementation

The transition period for merging the existing programs will require careful planning and discussions with PHAs and other interested parties. Accordingly, as provided by subsection (g), the regulations would be issued after notice and opportunity for public comment. The amendments made by this section would not take effect until a date specified in HUD in regulations establishing the new program or in a notice published in the Federal Register. Considering the extensive public comment HUD anticipates, this process is likely to take some time. Even after the regulations go into effect, HUD would be authorized to continue to apply former law where necessary to simplify program administration or to avoid hardship to families or owners.

HUD could provide for the transition of assistance under the existing Certificate and Voucher programs to the new Certificate program.

A premise underlying future appropriations for the new Certificate program will be that amounts would be available both for the new Certificate program, and to provide funding for any necessary amendments needed for HUD's existing contractual relationships. The legal capacity to manage appropriations flexibly would be one of the desirable results of the proposed new Certificate program.

Section 8 Certificate and Voucher Fees

Section 413 would amend section 8(q) of the 1937 Act to change the way HUD determines fees that are paid to PHAs (public housing agencies, including Indian housing authorities) for the costs of administering the section 8 Certificate and Housing Voucher programs. In addition, it would limit the preliminary fee to the initial increment of assistance to PHAs that have not previously carried out a Certificate or Housing Voucher program. For these PHAs, the amount of the preliminary fee would be increased from $275 to $500.

Under the revised system, a PHA would receive a fee for each month for which a dwelling unit is covered by a housing assistance payments (HAP) contract. The initial fee would be a percentage, as specified by law, of a "base amount" established by HUD. This initial fee would be 7.65% of a HUD-determined base amount for the first 1,000 units, and 7% of the base amount for any additional units. Each year, HUD would publish as a Notice in the Federal Register the per-unit-month fee amounts that would apply for PHAs operating in each metropolitan area and nonmetropolitan county for that Federal fiscal year. The change in the per-unit-month fee amounts would be based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by HUD.

HUD's determination of the "base amount" would build on practices established in FY 1994. As a result of section 11 of the HUD Demonstration Act of 1993, enacted in the Fall of 1993, the base amount used in FY 1994 is equal to the larger of two numbers: (a) the FY 1993 fair market rent (FMR) established by HUD for a 2-bedroom existing rental dwelling unit in the market area of the PHA; and (b) the FY 1994 FMR when higher than the FY 1993 FMR, but not to exceed the FY 1993 FMR by more than 3.5%. Under the proposed system, the base amount would be the same as the base amount actually used in FY 1994, subject however to a ceiling and floor. The base amount would be used only to determine the fee amount for the initial year.

To calculate the ceiling and floor, HUD has examined the distribution of certificates and vouchers across all PHAs in the country. Fifteen percent of the units are administered by PHAs with a base amount of $422 or less, and $422 becomes the floor. Fifteen percent are in PHAs with a base amount of $777 or more, and $777 becomes the ceiling. The intent of applying these caps and floors to the base amounts is to increase the level of reimbursement to PHAs serving areas with very low FMRs, and to avoid over-reimbursement of PHAs providing assistance in very high FMR areas.

The proposal would retain authority for HUD to increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas (see section 8(q)(1) of existing law), and for extraordinary expenses (see section 8(q)(2)(A)(iii)). In addition, HUD could approve higher fees if necessary to reflect the higher costs of administering the Family Self-Sufficiency program under section 23 of the 1937 Act.

The current system of section 8 administrative fees is unnecessarily complex, unwieldy, and inconsistent with program needs. The proposed amendment simplifies the current system and eliminates its most serious flaws.

The current system has three different rate structures. For pre-1989 allocations a 6.5% fee applies for vouchers and a 7.65% fee applies for certificates. For both programs, an 8.2% fee applies for incremental allocations made after 1988. Research shows that administrative costs for certificates and vouchers are very similar. The proposal would make the fee system more uniform.

Basing administrative fees on each year's FMRs means that administrative budgets are tied to changes in FMRs. Rents are subject to market forces and periodic rebenchmarking which can produce sudden increases or decreases in FMRs and administrative fees (but with no connection to changes in administrative costs). Erratic and sudden changes in administrative fees are not conducive to sound program management and can disrupt PHA efforts to provide a high and consistent quality of management and advisory services. If not for the special legislative language enacted in the Fall of 1993, the rebenchmarking of FMRs to the 1990 Census would have increased or decreased administrative funding for some PHAs by 25–30%. These problems would be solved by the proposal on a more permanent basis. Under this proposed new PHA fee system, PHAs would no longer face the possibility of sudden decreases in administrative budgets. Small PHAs and PHAs with unusually low FMRs would tend to receive higher fees. Large PHAs and those operating in high-FMR areas that research has shown to have excessive fees would receive some decreases.

Linking administrative fees to FMRs produces upward pressures on FMRs. The primary cost of administering the Section 8 program is wages paid to PHA employees. These wages are closely tied to local wage costs, but not necessarily to local rental costs.

FMR/local wage ratios differ significantly from area to area, with low FMR areas relatively underfunded and high FMR areas relatively overfunded. Small PHAs and PHAs in non-metro areas tend to have the lowest FMRs and appear to be least-favored by the current system. Research conducted by HUD's Office of Policy Development and Research indicates that housing costs (and FMRs) are more variable than wages and non-housing costs, and that areas with unusually high or low FMRs receive relatively high or low levels of administrative funding relative to local wage and other non-housing costs. This inequity is addressed by placing a "ceiling" and "floor" on the calculation of this initial fee base.

Small programs appear to have difficulties with current administrative fee levels, partly because they tend to operate in low FMR areas and partly because they are unable to achieve the economies of scale possible in larger PHSs. This is especially true where the small program covers a large geographic area. Under the new system, small PHAs would tend to receive higher fees, and could also apply for additional funds as needed.

The current statutory provision in section 8(q)(2(A)(ii) regarding costs of assisting families who experience unusual difficulties would be repealed. The currently used "hard-to house" add-on to fee reimbursements is no longer considered necessary to assure that adequate assistance is provided to large families with children. Almost 20% of families participating in the Certificate and Voucher programs contain three or more children, and the recent rebenchmarking for FMRs in most local markets has generally increased the FMR applicable for units with three or more bedrooms, and presumably also the availability of such units.

Current provisions in law that allow for additional fees for small PHSs, delivery of assistance within large geographic areas, and extraordinary costs would be retained. However, HUD would approve additional fees only in unusual circumstances, where the PHA documents justifies the need. The use of a floor in the setting of the initial fee base should help most small PHAs and PHAs serving large geographic areas, minimizing the need for additional fees.

The current preliminary fee of up to $275 per unit for new allocations, which is no longer a significant source of revenue because program sizes are now large relative to incremental unit allocations in any one year, would be modified. It would be increased to $500, limited to PHAs in their initial year of carrying out either the Certificate or Housing Voucher program, and paid without documentation by a PHA. Few additional PHAs enter either program in any one year. The preliminary fee has not been increased since the beginning of the program in the mid-1970s. Eliminating the need for PHAs to document the need for a preliminary fee would eliminate unnecessary paperwork. Virtually all PHAs are able to justify the proposed level of preliminary fees in their first year of participation in the program.

Implementation

Implementation of this proposal will require issuance of a proposed and final rule. HUD anticipates that the year of initial implementation will be fiscal year 1995.

To avoid administrative problems associated with sudden changes in fees, and taking into consideration the rebenchmarking of FMRs that has recently occurred, this proposal also extends (until such time as a final rule for this legislative proposal has been implemented) the fee rates applicable in FY 1994.

Subtitle C—Miscellaneous

Section 811 Rental Assistance for Persons With Disabilities

Section 421 would make a number of amendments to section 811 of the National Affordable Housing Act, Supportive Housing for Persons with Disabilities.

Rental assistance for existing buildings

Subsection (a) would permit HUD to provide rental assistance to lessors and owners of existing housing for a five-year term. The assistance could be provided to private, nonprofit organizations that lease or own housing which meets the requirements of the section 811 program for persons with disabilities.

Private, nonprofit organizations could also apply for section 811 capital advances for the construction, rehabilitation, or acquisition of housing receiving the benefit of a 20-year rental assistance contract. Sponsors requesting only rental assistance would be required to meet the eligibility requirements and adhere to similar application procedures as those seeking capital advances.

Subsection (a)(1) would permit qualifying private nonprofit organizations to receive rental assistance for housing they own or lease. Subsection (a)(2) would limit the 40-year very low-income use requirement to projects assisted with capital advances. Subsection (a)(3) would establish a maximum initial term of five years for existing housing. For example, a private, nonprofit organization could receive assistance for one or more units in a project it owns, or it could lease units for its programs, thus providing housing without incurring the long-term commitment of purchasing the units. This would give private nonprofit organizations greater flexibility in serving persons with disabilities and would permit selection of housing units to promote greater integration of persons with disabilities into the community. It would permit HUD to assist private nonprofit entities and to deliver assistance more quickly to a population in need, while still preserving the quality of housing, supportive services, and section 811 program standards. Expiring contracts could be extended for a term of not less than five years.

Subsection (a)(4) would clarify that the selection criterion in section 811(g)(1) relating to ability of the applicant to develop housing only applies when development is involved.

Subsection (a)(5) would make a technical amendment to the selection criteria for assistance in sections 811(g) (3) and (5), to refer not only to the "proposed design" of the housing involved but also the "design" of such housing, since existing housing does not involve a "proposed design."

Subsection (a)(6) (A) and (B) would limit the site control requirements of section 811(j)(3) to applicants proposing to use capital advance assistance and redesignate them as subparagraph (B). Subsection (a)(6)(C) would add a new section 811(j)(3)(B) to cover site control requirements where only project rental assistance (not capital advance assistance) is involved. In that case, the applicant would be required to have ownership or control (such as a lease) of a suitable site at the time of application. HUD could approve a transfer of the assistance to another site at any time from the date the application is submitted to the expiration date of the rental assistance contract.

Subsection (a)(7) would amend section 811(j)(4). This provision requires an owner to deposit up to $10,000 in a special escrow account to assure the owner's commitment to the housing. Subsection (a)(7) would make the provision applicable only if the housing is assisted with capital advances. Since the rental assistance contracts involved would only be for a term of five years and would not involve capital advances, HUD believes a deposit is not necessary to assure the owner's commitment to the housing.

Subsection (a)(8) would amend section 811(k)(1) to permit waiver of the 8-person limit for group homes in the case of existing housing as well as the development of housing with a capital advance.

Subsection (a)(9) would amend the definition of "owner" to include owners where only rental assistance is provided.

Subsection (a)(10) would correct a cross reference.

Repeal of tenant-based assistance

Subsection (b) would repeal the amendments made by section 623 of the Housing and Community Development Act of 1992. This provision amended the Section 811 program to authorize the use of program funds for tenant-based assistance for the disabled. Unlike the rest of the Section 811 program, which is operated by non-profit sponsors, section 623 requires that tenant-based rental assistance be administered only by public housing agencies (PHAs).

The Department does not believe that responsibility for the program should have split administration. Non-profit sponsors have successfully and efficiently operated the Section 811 program and its predecessor throughout their history. The Department sees no need to fix a system that is working well. The amendment in subsection (b) would simply return the Section 811 program to its status before enactment of the 1992 Act, with respect to this matter.

Finally, enactment of the existing housing authority in subsection (a) would address a need very similar to that contained in section 623.

Technical change

1. Subsection (c)(1) would make technical changes to section 811(k)(6)(A) of NAHA. This provision, added by section 603 of the 1992 Act, requires Section 811 housing sponsors to have received, or have temporary clearance to receive, a tax exemption under section 503(c) of the Internal Revenue Code of 1986.

First, subsection (c)(1) would permit sponsors to have a tax exemption under either section 501(c) (3) or (4). Sponsors that are tax-exempt under section 501(c)(4) were eligible before the 1992 amendment. There appears no reason to exclude these sponsors from participation in the program, and subsection (c) would restore this coverage.

Second, subsection (c)(1) would remove an erroneous reference to "temporary clearance" of tax-exempt status by the IRS. IRS advises that there is no such clearance procedure.

Subsection (c)(2) contains a conforming change deleting section 8(i) of the 1937 Act, as added by section 623(b) of the 1992 Act.

Funding for Supportive Housing for the Elderly and for Persons With Disabilities

Section 422 would authorize appropriations for fiscal years 1995 and 1996 for the section 202 Supportive Housing for the Elderly program, and the section 811 Supportive Hous-

ing for Persons with Disabilities program, as follows:

For fiscal year 1995, $537,000,000 would be authorized for both programs, including for the section 811 program, $387,000,000, and for the section 202 program, $150,000,000. For fiscal year 1996, the total authorization would be for $387,000,000, entirely for the Supportive Housing for Persons with Disabilities program under section 811.

Youthbuild

Section 423 would amend the Youthbuild program, authorized under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act,[8] to make the program more cost-efficient as a training mechanism and to make cooperation with the Youthbuild program more attractive to developers.

Subsection (a)(1) would amend section 454(b)(2) of the Cranston-Gonzalez National Affordable Housing Act to provide that occupied housing is not eligible in the Youthbuild program.

One major objective of the program is to expand the supply of affordable housing for homeless and low-income persons. The housing can be new construction or rehabilitation. It should be made clear that the rehab is only for vacant units, not occupied housing. Relocation costs can be significant in occupied housing and the priority needs to focus on actually expanding the number of units available for new occupants.

Subsection (a)(2) would amend section 454(b) to remove, from the list of eligible Youthbuild implementation grant activities, the funding of operating expenses and replacement reserves of property covered by the Youthbuild program.

Removing authority to fund operating expenses and replacement reserves under the program would result in the training of more disadvantaged youth, because all grant funds would be spent on training-related costs instead of being dedicated to the long-term operating expenses and replacement reserve costs of the housing provided under Youthbuild.

Subsection (b) would eliminate the requirement for HUD to develop a procedure for a combined application for a planning grant and an implementation grant, currently contained in section 454(g).

The combined grant format is not useful. Applicants need to apply for planning or implementation grants—not both. Combined grants are operationally infeasible and costly. The structure of the planning process does not work with the implementation cycle. Combined grants tie up implementation funds for too long with any direct results or benefits. Demand is so high that only 1 out of 10 implementation grant applications can be approved.

Subsection (c)(1) would amend section 455(a) to ease the use restrictions on Youthbuild properties by making it clear that these restrictions apply only to properties for which Youthbuild funds are used to pay for hard costs, such as construction. This would make the program more attractive to developers.

Easing the use restrictions would make the program more attractive to developers who could serve as partners by providing construction and rehabilitation sites for Youthbuild training, thus reducing the amount of Youthbuild funds spent on construction.

Subsection (c)(2) would redefine income eligibility under section 455 by requiring 90% of the units to be available for occupancy with families with incomes no higher than 50% of median, instead of incomes less than 60%.

This would eliminate the confusion generated by the use of a 60% standard instead of the usual HUD standard for defining very low-income families of 50%.

Subsection (d) would amend section 458(d) to permit HUD to use amounts from the technical assistance set-aside to contract for assistance in managing the program.

HUD has insufficient staff to monitor the Youthbuild program. Contract resources are essential to avoid fraud and mismanagement. It is efficient to have the technical assistance provider assist in the management of the program consistent with section 458(a) of the Act.

HOPE Authorization of Appropriations

Section 424 would, in subsection (a), authorize appropriations for the HOPE Homeownership programs at $100,000,000 for fiscal year 1995 and $100,000,000 for fiscal year 1996. Amounts for technical assistance would be included within this authorization. Subsection (b) would authorize $50 million for each of fiscal years 1995 and 1996 for the Youthbuild program.

Authorization of Appropriations for Housing Opportunities for Persons With AIDS Program

Section 425 would authorize $156,000,000 for appropriations in each of fiscal years 1995 and 1996 for housing for persons with AIDS.

TITLE V—PRESERVATION AND PRODUCTION MISCELLANEOUS AMENDMENTS TO LIHPRHA

During the late 1960's and early 1970's, several thousand multifamily housing projects were built with mortgages insured or assisted by HUD under the section 221(d)(3) and section 236 programs of the National Housing Act. For projects owned by limited distribution mortgagors, HUD regulations provide the owner may prepay the mortgage debt after 20 years without HUD's consent. Prepayment of the mortgage has the effect of terminating the HUD-imposed low-income affordability restrictions which ensure that the project is maintained for very low-income, low-income, and moderate-income tenants. Over the next 15 years, the owners of 360,000 units of multifamily housing projects will become eligible to prepay their mortgage loans and convert the properties to market rate rental housing or other purposes. During the mid-1980's public concern was raised about the risk of losing the availability of this stock for use for low-income housing purposes.

In response to these concerns, the Emergency Low Income Housing Preservation Act of 1987 ("1987 Act") was enacted. The 1987 Act placed constraints on an owner's right to prepay and created incentives either to encourage owners to retain the low-income affordability restrictions in exchange for receiving a greater return on investment or to transfer the property to purchasers that would agree to retain the low-income affordability restrictions. The fundamental principles of the 1987 Act were that the housing should be preserved for its originally intended beneficiaries and that owners should be assured a fair and reasonable return on their investment through new incentives for the project for the remaining term of the mortgage. The 1987 Act was intended to be temporary in nature and gave Congress time to develop a permanent program. This program was established under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 ("1990 Act"), which replaced title II of the 1987 Act and was enacted as part of the National Affordable Housing Act.

The basic objectives of the 1990 Act are to assure that most of the projects eligible to prepay remain affordable to low-income tenants and to provide opportunities for tenants to become homeowners. At the same time, the 1990 Act provides for fair compensation for owners for the value of their properties. The 1990 Act provides authority under very specific and limited circumstances for owners to prepay their mortgage loans and convert their properties to other uses.

Section 501 would make several changes to the 1990 Act to assure excessive incentives are not provided and to simplify administration of the program, as described below.

Establish a realistic Federal cost cap

Under current law, HUD can provide assistance to an owner to maintain a project as affordable rental housing so that total project rents will be as much as the higher of 120% of the section 8 existing housing fair market rent for the market area (FMR) or 120% of the prevailing rents in the relevant local market area. This is called the Federal Cost Limit. For owners seeking to sell their projects, the current law contains no limit on the amount of HUD assistance. For projects with aggregate preservation rents exceeding the Federal Cost Limit, HUD is authorized under subsection (d)(2) of section 221 (Mandatory Sale for Housing Exceeding Federal Cost Limits) to provide additional assistance in the form of a capital grant to priority purchasers.

The Federal Cost Limit in the current law results in extremely expensive incentives packages. The amendments would cap the Federal cost limit at the local FMR. This would establish a uniform and realistic ceiling on incentives packages for owners retaining their properties and for owners selling their properties. When the value of an incentives package exceeds the local FMR, it is more cost-effective for HUD to assist eligible tenants with section 8 vouchers than to provide owners or purchasers with the additional project-based assistance above the FMR.

Owners of projects with aggregate preservation rents that exceed the new Federal Cost Limit would be able to prepay their mortgages, subject to the protections for tenants in section 223. Section 223 requires issuance of vouchers to families and provides other benefits. Recaptures of existing project-based rental assistance and interest reduction payments would largely offset the costs of the vouchers for their first five-year term.

Alternatively, owners could elect to accept an incentives package or sell a project at a price that does not exceed the new Federal Cost Limit. State and local governments could elect to make up some or all of the difference above the Federal Cost Limit if they determine it is important to preserve certain projects. This would encourage non-Federal participants to share the costs of preserving, for low- and moderate-income housing purposes, projects with high costs or values, where appropriate.

Subsection (a)(1)(A) would amend section 215, which establishes the Federal cost limits, to reduce the cap to 100% of the FMR. Subsection (a)(1)(B) would repeal section 215(a)(2), which establishes the Federal cost limit based on 120% of prevailing rents in the relevant local market area. Subsection (a)(3)(A) would repeal section 221, which provides incentives beyond the Federal Cost Limit in the case of sales to a qualified purchaser (including a priority purchaser). Subsection (a)(2) would amend section 215(b)(2)(C) to provide that where the preser-

vation rents exceed the Federal cost limit, the owner could file a second notice of intent indicating an intention to terminate low-income affordability restrictions, subject to compliance with the tenant protections in section 223 (Assistance for Displaced Tenants). The protections in section 223 now apply where an owner does not receive a purchase offer, the purchaser is unable to complete the purchase, or HUD is unable to fund an acceptable plan of action. The remainder of the amendments in subsection (a) contain related conforming amendments.

Cap appraisals under LIHPRHA at fair market value for residential rental use

Subsection (b) would amend section 213(b)(2) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 to cap appraisals for all purposes at the fair market value of the property assuming market rate residential rental use. Under existing law, where an owner is selling or otherwise transferring the property to qualified purchasers under section 220 or 221, appraisals are performed based on the "highest and best use" of the property. For purposes of extending low-income affordability restrictions and receiving incentives under LIHPRHA, the preservation value is the fair market value of the property based on the highest and best use of the property as residential rental housing.

Requiring an appraisal based on the highest and best use of the property for market rate residential rental purposes, both for owners who elect to extend low-income affordability restrictions and owners who elect to sell or otherwise transfer the property, would reduce the subsidy costs of the Preservation program under LIHPRHA, the cost of conducting two types of appraisals, and the time needed for HUD to process applications. In addition, the disincentive to extend low-income affordability restrictions, due to the typically lower appraised value as market rate residential rental use, would be removed.

Repeal of homeownership assistance

Subsection (c) would eliminate the use of grants for resident homeownership. Grants are expensive because all the funding has to be provided on an up-front basis. However, even absent the homeownership grants provision, homeownership conversion to limited equity cooperatives will still continue and be funded through section 8 assistance to low-income resident buyers. Eliminating grants also simplifies the program and makes it easier for residents to participate.

Transition

Subsection (e) would apply the amendments made by this section only to eligible owners that file a plan of action under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 on or after the date of enactment of this Act.

Low-Income Housing Preservation Authorization of Appropriations

Section 502 would authorize appropriations for Low-Income Housing Preservation at $226,000,000 for fiscal year 1996.

FHA Fund Support of Section 8 Assistance for Property Disposition

Under section 503, section 8 assistance that was used in connection with property disposition under section 203 of the Housing and Community Development Amendments of 1978 would be funded from the cognizant FHA Fund (General Insurance or Special Risk, as applicable), instead of being funded with budget authority provided under the U.S. Housing Act of 1937 (as all other section 8 assistance is funded). The amounts of budget authority to be made available from the Fund for the section 8 assistance would be $3.945 billion for 5 years. Also, section 207 of the National Housing Act would be amended to make rental assistance an eligible cost in connection with the sale or lease of acquired properties.

In common with other amounts drawn from the Fund for property disposition, the rental assistance and newly-authorized grant funds would properly be scored as a mandatory, rather than discretionary, expenditure. See sections 250(c) (7) and (8) of the Gramm-Rudman-Hollings Act. Demands on amounts budgeted for HUD's discretionary programs would be reduced, to the extent that the rental assistance and grants in connection with property disposition costs were borne by the FHA Fund, instead of the 1937 Act. The costs of the new mandatory program would be offset by the savings in other, FHA mandatory charges that would be incurred if the properties are held in inventory rather than sold.

The management and disposition of HUD-owned multifamily properties and the foreclosure of delinquent, HUD-held mortgages is subject to the strict affordability mandates of section 203 of the Housing and Community Development Amendments of 1978. The legislation requires that section 8 rental assistance, or an equivalent subsidy, be provided for a minimum of 15 years to preserve HUD-held and -owned mortgages and properties after foreclosure or sale. Section 203 was recently amended by the Multifamily Housing Property "Disposition Reform Act of 1994 to modify the requirements, particularly as applied to formerly unsubsidized projects, but affordability will remain a funding issue for substantial numbers of formerly subsidized projects.

The Department is effectively prohibited from selling properties without the required amounts of section 8 subsidy, currently scored as a discretionary expenditure. To the extent insufficient amounts of discretionary subsidy are appropriated for this and other section 8 programs, the Department is nevertheless required by law to manage the properties in a manner meeting the statutory affordability criteria. This means managing the asset and providing suitable and affordable housing to the low-income target population, without section 8 subsidy. The cost associated with HUD ownership, including maintenance and the rental subsidies that HUD must nevertheless supply, are paid for out of the General Insurance Fund. The holding costs are scored as a mandatory charge.

With the existing budgetary distinctions between "mandatory" and "discretionary" expenditures, classification of an activity is of critical importance. The tightening caps and reductions associated with discretionary charges has, over the years, created a perverse incentive to hold properties in inventory and subsidize them as a mandatory expense rather than request or appropriate requisite amounts of discretionary budget authority to sell the asset and return it to private and non-profit ownership. While this may constitute rational budget strategy, it is not a sound methodology for making the optimal social and financial decisions regarding asset ownership.

The current proposal is designed to establish a "level playing field" for decisions regarding the management and disposition of these assets, so that concerns in addition to the scoring of the budget authority receives due consideration.

The proposal has a significant budgetary scoring impact (for the better) and also should provide for more cost-effective methods for dealing with the substantial mortgage note and property investments acquired by the Federal government.

HOME Program Loan Guarantees

Section 504 would establish a loan guarantee program for the HOME Program, similar to the Section 108 authority for the Community Development Block Grant Program. This authority would provide participating jurisdictions with an efficient source of financing for large scale housing development.

Eligible applicants would be eligible HOME participating jurisdictions.

The participating jurisdiction may be the borrower or it may designate a public agency to issue the notes or other obligations and receive the guarantee.

Eligible activities would include: acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing including real property acquisition, site improvements, conversion, demolition and other expenses, including financing costs, relocation expenses of any displaced persons, families or business organizations. Credit enhancements and debt service reserves would be eligible under this authority while these activities are limited under the regular program because of the disbursement requirements under the statute. The costs associated with a public offering is also eligible. All housing funded under this section shall meet the requirements of this title.

The maximum amount of loans that HUD may guarantee or commit to guarantee for each PJ is limited to five times the participating jurisdiction's latest HOME allocation amount, as well as being limited by the appropriations action.

Security for the loan guarantee is a pledge by the applicant of its current and future HOME funds. HUD may also require additional security, especially if the repayment period exceeds 10 years. In any event, the repayment period may not exceed 20 years. The guaranteed loans would be financed in the same manner as the CDBG Section 108 loan guarantee program. In the event of default, HUD could make payments on the loan using the pledged HOME funds.

The ability to use HOME loan guarantees could be essential to participating jurisdictions who had formulated and were implementing a neighborhoodwide strategy to build or rehabilitate large numbers of units as a single undertaking within a relatively short period of time. The ability to borrow a large sum of money for construction would result in economies of scale and the opportunity to make a visible impact on a neighborhood in the short term. Providing large physical change may be the only way to turn crime ridden, seriously deteriorated neighborhoods around.

The use of loan guarantees in the HOME Program would enhance the program's ability to be a major force for development. This proposal would also put the loan guarantee program under the Department's direct scrutiny and forestall increasing pressure to use HOME funds for credit enhancements developed by individual participating jurisdictions. Many of the local proposals have been open ended and without a clear measure of benefit to low-income housing production.

Home Authorization of Appropriations

Section 505 would authorize appropriations for the HOME Investment Partnerships program at $1,000,000,000 for fiscal year 1995 and $1,000,000,000 for fiscal year 1996.

Extension of the Section 221(g)(4) Auction Provisions

Section 506 would amend section 221(g)(4)(C)(viii) of the National Housing Act to extend through December 31, 2005 the sunset date for the authority to auction mortgages insured under section 221 and assigned to HUD. Under current law, the auction provisions expire September 30, 1995. If a mortgage insured under section 221 pursuant to a commitment issued before November 30, 1983 is not in default 20 years from the date of endorsement for insurance, the mortgagee may assign the mortgage to HUD and receive the benefits of insurance.

This proposal is necessary to continue the auction of multifamily and single family mortgages assigned to HUD pursuant to section 221(g)(4) after September 30, 1995. An expiration date of December 31, 2005, would give HUD an opportunity to auction all mortgages that provide for assignment and are assigned pursuant to this authority.

Extension of the Multifamily Mortgage Credit Demonstrations

Section 507 would extend the Multifamily Mortgage Credit Demonstrations under section 542 of the HCD Act of 1992. The FHA Multifamily Risk-Sharing Pilot program under subsection (b) would be extended through FY 1996, and the Housing Finance Agency Pilot program would be extended through FY 1997.

TITLE VI—EXPAND FAIR HOUSING

Metropolitan areawide strategy demonstration

Section 601 would authorize the Metropolitan Areawide Strategy demonstrations. Under this demonstration, the Secretary would select a consortia of units of general local government in each of three different metropolitan areas to engage in the marketing of assisted housing on a metropolitan areawide basis. The consortia would carry out the demonstration through clearinghouses administered by private, nonprofit organizations selected by the consortia. The demonstration could be approved for a period of up to three years for any one metropolitan area.

Object of the Demonstration

The demonstration would help carry out the Secretary's statutory mandate under the Fair Housing Act to affirmatively further fair housing in all programs of housing and urban development. In addition, the demonstration would fulfill President Clinton's directive in Executive Order 12892 and the accompanying Presidential Memorandum, signed January 16, 1994, to undertake pilot programs, together with other Federal agencies as the Secretary considers appropriate, to further fair housing and to address problems of metropolitan segregation.

The demonstration would promote innovation in addressing racial segregation in the Department's assisted housing programs. It would also advance the Secretary's objective to affirmatively further fair housing, allowing the Department to identify statutory impediments to achieving fair housing and reinvent the way assisted housing programs are marketed.

PHAs in the selected metropolitan areas would be expected to provide incentives to improve the attraction of public housing, achieve desegregation, and affirmatively further fair housing. These measures would be aimed at changing the perception of public housing as the housing of last resort. Instead, they would be intended, in combination with other measures proposed, to make presently minority-dominated public housing a path to social and economic mobility for non-minorities as well.

HUD would require PHAs to focus their comprehensive grant modernization funds on developments that are predominantly minority and where disparities in services and amenities exist.

Waiver Authority

The Secretary would be authorized to waive, or specify alternative requirements for, statute and regulations HUD administers, upon finding that the waiver or alternative requirement (1) is necessary to facilitate the demonstration and (2) would not be inconsistent with the overall purpose of the statute of regulation affected. However, the Secretary could not waive or specify alternative requirements for statutory requirements related to nondiscrimination, fair housing, labor standards, or the environment, except that the Secretary could waive affirmative marketing requirements for participants in the demonstration.

Application and Selection

Applicants would be required to demonstrate extensive cooperation by public housing agencies in the metropolitan area and by private owners of federally-insured and federally-assisted housing and State- and locally-assisted housing, by submitting evidence that they are willing to list all vacancies with the clearinghouse and to make selections from tenants referred by the clearinghouse. The Secretary would select among applicants in a manner the Secretary determines to be appropriate, taking into account such factors as (1) the need for a range of metropolitan area sizes, (2) the extent of racial separation, isolation, and segregation in the applicant's metropolitan area, (3) the capacity of the ability of the proposed nonprofit organization selected to administer the clearinghouse, (4) the degree of cooperation and coordination achieved among governments in the metropolitan area and between government and private assisted housing providers, and (5) the potential effects and benefits the variations on regional planning, housing counseling, and other support services and approaches to marketing strategies proposed by each applicant could have on the racial patterns in assisted housing programs if the variations were adopted nationwide.

Waiting List

The nonprofit organizations administering the clearinghouses would operate a consolidated waiting list for federally-assisted family housing programs in each participating jurisdiction within the selected metropolitan areas, covering all jurisdictions in which the demonstration operates. Elderly housing programs would not be included. Under this system the waiting list would have separate sub-lists for each housing program. All eligible applicants for assisted housing would be on all sub-lists. Housing vacancies in each program would be reported to the clearinghouses by PHAs and other housing providers as they occurred.

The clearinghouses would review eligibility, perform income and employment verification, check previous tenant history, and secure all information necessary to determine Federal and local preferences. First priority within all preference categories would be given to those who wished to select a location where their race is not predominant. No residency preferences would be permitted in the Federal preference categories. Residency preferences could be allowed as part of local, non-Federal preferences after review by the Department to assure that they were not inconsistent with the demonstration objectives or in violation of the Fair Housing Act. Housing providers would carry out tenant suitability screening of all applicants referred from the clearinghouses and could accept or reject them for good cause.

Information Campaign

The clearinghouses would carry out a broad-based (multimedia) information campaign to reach out to all persons seeking housing within the metropolitan area. No single ethnic or racial group would have an advantage in applying for housing. The clearinghouses would carry out an active fair housing information and support program to encourage applicants to consider choices which would promote fair housing. This would include escort services to neighborhoods where the applicant's race is not predominant, counseling regarding social services available in such neighborhoods, information regarding transportation alternatives, schools and health care, and establishing tenant support groups to overcome the "pioneer" obstacle.

Progress Reports and Independent Evaluation

The clearinghouse for each demonstration site would be required to submit an annual progress report. In addition, within one year of the conclusion of each demonstration, the Department plans to submit to Congress a report describing the results of the demonstration and any recommendations for legislation.

An independent evaluation would be an important part of the demonstration and would measure the effects of waiving certain Federal requirements and policies. This evaluation is essential to HUD's and the Congress' ability to take the lessons learned from the demonstration and put them to practical use by revising current assisted housing programs or creating new ones.

Funding

For each of FYs 1995, 1996, and 1997, $15 million would be authorized to be appropriated for costs related to regional planning, housing counseling, and administrative costs of the nonprofit organizations selected to carry out the demonstration. In addition, $9 million from amounts available for assisted housing would be earmarked each year for modernization of public housing of central city PHAs participating in the demonstration. Of the amounts appropriated for tenant-based certificates, HUD would be authorized to set aside each year up to $100,000,000 for use by PHAs in support of the demonstration. This amount is expected to provide approximately 3,000 certificates each year.

Expand use of amounts in section 213(d)(4), headquarters reserve, in connection with settlement of civil rights litigation

Section 602 would permit the Secretary to use amounts in the Headquarters Reserve, established under section 213(d)(4) of the 1974 Act, for additional purposes, in connection with the settlement of civil rights litigation that is brought against the Department (other than by a HUD employee or former employee). This would include authority to use the Reserve to resolve disputes under existing settlement agreements and court orders. The new uses would be fair housing activities and cash payments. Currently, amounts in the reserve may only be used for public housing development and section 8 assistance.

Section 213(d)(4) of the 1974 Act authorizes HUD to retain up to 5% of the financial as-

sistance that become available under the public housing and section 8 programs in the Headquarters Reserve. Currently, the Reserve may only be used for:

(i) unforeseen housing needs resulting from natural and other disasters;

(ii) housing needs resulting from emergencies other than such disasters;

(iii) housing needs resulting from the settlement of lawsuits; and

(iv) housing in support of desegregation efforts.

In addition to these housing activities, this proposal would enable the Secretary to undertake activities related to the settlement of civil rights litigation, such as:

Contracting with a non-profit organization to establish a Fair Housing Services Center to provide technical support to PHAs which are attempting to desegregate their projects;

Contracting with a non-profit organization to monitor compliance with civil rights requirements;

Contracting with a non-profit entity to provide services to public housing applicants and residents and section 8 certificate-holders with information on alternatives housing possibilities, transportation for the housing search, and other assistance in exercising their freedom of housing choice; and

Making cash payments to individuals and organizations harmed by violation of civil rights requirements.

As a technical matter, to permit use of amounts appropriated for use under the 1937 Act, the 1937 Act would also be amended to permit up to 5% of the aggregate amounts appropriated for section 8 and public housing development to be used for these new purposes under the Headquarters Reserve in addition to the activities now authorized. Since the Reserve will continue to be used for housing as well, less than the full 5% is expected to be used for the new activities.

Section 213(d)(4) of the 1974 Act authorizes the Secretary to use amounts in the Headquarters Reserve only for housing assistance authorized by the 1937 Act (i.e., for the development of additional Public and Indian housing units and funding of section 8 assistance, including certificates and vouchers). Since it may not always be appropriate or possible to settle litigation in such a manner, the Department is requesting the flexibility to settle lawsuits by provision of funds for other purposes. Having this flexibility would also make it possible to settle cases more quickly and sometimes with significantly lower costs.

The proposed fair housing enforcement and related activities would also help make housing available to a broader cross-section of the eligible population and ensure greater housing choice and opportunity. Funds used for fair housing activities would greatly contribute to the success of any metropolitan areawide housing strategy, since fair housing policies are integral parts of such strategies.

This proposal has become necessary because Congress, in 1992, amended the Fair Housing Initiatives program (FHIP) legislation so that FHIP funds could not be used in support of litigation settlements. It is more appropriate to fund activities addressing discrimination under 1937 Act programs using 1937 Act funds rather than reducing amounts available for fair housing enforcement.

Make CDBG expenditures on fair housing activities eligible activities in their own right

Section 603 would change the status of fair housing-related activities in the Community Development Block Grant regulations at 24 CFR 570.206(c) and 570.201(e). Section 570.206(c) includes as eligible program administration activities the conduct of fair housing enforcement and education activities designed to further the objectives of the Fair Housing Act. Section 570.201(e) makes eligible for CDBG funding fair housing activities that qualify as public services. Overall funding caps apply to all public service and administrative expenses (planning and program administration) undertaken by grant recipients. This proposal would make fair housing-related activities free-standing eligible activities in their own right.

Activities subject to the proposal include the provision of fair housing services designed to further the objectives of the Fair Housing Act by making all persons aware of the housing opportunities available to them; and other non-physical development activities designed to further the objective of avoiding undue concentration of lower income persons. The proposal also would presume that these freestanding fair housing activities would principally benefit low- and moderate-income residents of the jurisdiction.

Under the proposal, preparation and analysis of impediments to fair housing would remain under the planning and management activities cap stated in 24 CFR 570.205(a)(4)(vii) and would not be a free-standing fair housing activity. (The Department is proposing this in order to maintain the distinction currently found in the Community Development Block Grant regulations between planning and other activities.)

The Community Development Block Grant Entitlement program regulations now permit grantees to carry out limited fair housing activities. Section 570.205(a)(4)(vii) allows the conduct of an analysis of impediments to fair housing as an eligible planning, management, and capacity building activity. As noted, §570.206(c) includes as eligible program administration activities the conduct of fair housing enforcement and education activities designed to further the objectives of the Fair Housing Act, and §570.201(e) makes eligible for CDBG funding fair housing activities that qualify as public services.

This status as only one of many eligible activities under the categories of administrative costs, planning activities, and public services reduces the importance of fair housing within the total scheme of activities in the CDBG Entitlement program. Furthermore, including fair housing within the categories of administrative costs and planning activities makes it very difficult for the Department to determine the dollars spent on fair housing activities.

Adding fair housing as an eligible activity under section 105 of the 1974 Act would bring about the following results:

The funding cost caps which currently limit funding for covered fair housing-related activities would be removed.

In addition to making fair housing an eligible activity in its own right, the statutory provisions would presume that fair housing activities would benefit low- and moderate-income residents of the jurisdiction. By applying this presumption, the Department would relieve recipients of an administrative burden to substantiate low- and moderate-income benefit.

The duty of CDBG recipients to affirmatively further fair housing would be regarded as an equal and comparable basis for the use of CDBG funding as other "brick and mortar" housing and community development activities. This newfound equality would be crucial to the success of metropolitan areawide strategies and of fair housing strategies applied within local communities, since these strategies act as the underpinning for the other activities that generate greater housing opportunities for all segments of the eligible population. The CDBG-funded fair housing activities are supposed to insure that the jurisdiction will carry out its certification to affirmatively further fair housing through the other programs it funds as a CDBG Entitlement recipient.

Fair housing initiatives program authorization of appropriations

Section 604 would authorize appropriations for the Fair Housing Initiatives program at $26 million for each of fiscal years 1995 and 1996. Included with these amounts, for each such years, would be the following:

$9 million for private enforcement initiatives;

$7 million for fair housing enforcement organizations;

$7 million for education and outreach programs; and

$3 million for administrative enforcement.

Civil money penalties for violations of the Home Mortgage Disclosure Act by nonsupervised mortgagees

Section 605 would amend section 305(b) of the Home Mortgage Disclosure Act of 1975 (HMDA) to give the Secretary of Housing and Urban Development the authority to enforce compliance with the reporting requirements that HMDA imposes on nonsupervised lending institutions, i.e., mortgage bankers.[9] Enforcement would be through imposition of civil money penalties. Violations for which a civil money penalty may be imposed are the late submission of a report, failure to submit a report, submission of an illegible report, submission of an erroneous report, and failure to submit a corrected report for one that was illegible or erroneous.

This is an amendment to correct a legislative error in §305(b)(4) of HMDA. It would give the Secretary enforcement authority. The need for this correction was identified by the Civil Money Penalties Working Group of the HMDA Subcommittee of the FFIEC Consumer Compliance Task Force.[10] The Working Group has developed guidelines for the imposition of uniform civil money penalties by the FFIEC agencies for violations of HMDA by financial institutions required to submit annual reports on their lending activities.

Section 305 of HMDA is captioned "Enforcement;" subsection (b) of section 305 presently reads as follows:

(b) Powers of certain other agencies. Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System other than national banks, by the [Federal Reserve] Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)) and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act by the Director of the Office of Thrift Supervision, in the case of a savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with Respect to any credit union; and

(4) other lending institutions, by the Secretary of Housing and Urban Development.

The Civil Money Penalties Working Group was comprised of representatives of the FFIEC agencies and HUD. A memorandum written by the Federal Reserve Board's representative on the Working Group includes the following statement:

However, while HUD is given the enforcement authority over "other lending institutions", no act is cited in this statute which gives them the authority to fine. Therefore, while the FFIEC agencies do have the power to fine, HUD appears to need the authority from another act to assess these penalties.

HUD concurs with this statement. Furthermore, not only is the language of section 305(b)(4) inadequate to permit the Secretary to impose civil money penalties, it is also, on its face, meaningless. Literally, it reads:

Compliance with the requirements imposed under this title shall be enforced under other lending institutions, by the Secretary of Housing and Urban Development.

The provisions relating to civil money penalties are adapted from section 536 of the National Housing Act. The violations specified in proposed section 305(c)(4) are those for which the FFIEC member agencies will impose civil money penalties.

TITLE VII—COMMUNITY DEVELOPMENT AND EMPOWERMENT

Subtitle A—Neighborhood Leveraged Investments for Tomorrow (LIFT) Program

Subtitle A creates a new, project-based program that is an integral part of, and catalyst for, comprehensive neighborhood revitalization and economic development, particularly in communities that develop comprehensive plans for community development. The proposed initial appropriation is $200 million.

The overall objective of the LIFT program would be to provide States, units of general local government, Indian tribes, and community-based non-profit organizations funds for stimulating public and private investment in the community-building enterprises that provide essential services to disadvantaged communities, spur new investment and development in nearby areas, and create jobs for neighborhood residents. These projects would be designed to fill a market gap and improve the quality of life in "neighborhoods of need" located in urbanized areas.

Assisted activities could only take place in connection with neighborhoods in need. The Secretary would define these neighborhoods, and would define levels of need by reference to factors such as concentrations of low- and moderate-income persons in census tracts in the neighborhood, poverty rates in the neighborhood, and rates of unemployment in the neighborhood. Assisted areas would be limited to neighborhoods outside central business districts, although the Secretary could waive this requirement where a successful neighborhood revitalization strategy is contingent upon the simultaneous revitalization of such a district.

The types of eligible activities would include, but not be limited to the construction, rehabilitation, or financing of: retail and service facilities; mixed-use projects; projects that link housing and economic development; community centers; community-based business expansions; and industrial development.

Community Building Enterprises

The LIFT proposal has two principal elements. The first component, which is discretionary, would help localities and community-based organizations (CBOs) develop and implement neighborhood revitalization projects, for example, as developers or joint-venture partners with for-profit developers. After amounts are deducted for training, information, and technical assistance activities in connection with the program, 75 percent of the remaining amounts in any fiscal year would be available for this component. HUD would act as a facilitator in putting together public/private partnerships that include CBOs, units of general local government, and for-profit entities within the selected jurisdictions. A funding preference would be given to projects that meet such factors as:

Providing essential goods and services to residents of the neighborhood;

Generating jobs for residents of the neighborhood, especially for residents who are chronically unemployed or receive welfare;

Being an essential element of, and catalyst for, the comprehensive physical and economic revitalization of the neighborhood;

Building the economic base of the neighborhood through such measures as business expansion, job opportunities, and meaningful reinvestment of a share of the profits of a successful project in the neighborhood, including economically empowering neighborhood residents to carry out additional neighborhood development projects; and

Leveraging public and private investment (other than assistance under this subtitle) in the physical and economic revitalization of the neighborhood and in the activities proposed to be assisted.

The second LIFT component, which is competitive, would complement the Community Development Block Grant (CDBG) program and the Section 108 Loan Guarantee program by providing funds for those development projects that need a source of extremely patient secondary financing that can wait for periods of up to five to ten years before a business reaches an acceptable level of profitability. This competitive component, which would be funded at 25 percent of appropriations, would fill a critical gap in the available arsenal of tools to bring about the physical and economic revitalization of distressed urban neighborhoods and rural communities by offering businesses a sufficient economic incentive to make these projects viable. LIFT funds would act as a catalyst for investments in these projects. Due to the scale and timing of these projects, CDBG funds are often insufficient to capitalize the needs of such economic revitalization projects.

The Secretary would establish limits on the number of applications submitted by individual grantees within any unit of general local government, State, or Indian tribe for each funding round. The Secretary would also establish aggregate limits on the grant amounts that may be made available to individual grantees within a unit of general local government, State, or Indian tribe for each announcement of funding availability for each funding round.

In selecting grantees for these grants, the Secretary would make grants based on the extent to which the assisted activities would:

Generate jobs for residents of the neighborhood, especially for residents who are chronically unemployed or receive welfare;

Build the economic base of the neighborhood through such measures as business expansion, job opportunities, and meaningful reinvestment of a share of the profits of a successful project in the neighborhood, including economically empowering neighborhood residents to carry out additional neighborhood development projects;

Are sponsored by for-profit or non-profit development partnerships with a proven record of success;

Build upon and expand the capacity of local institutions to carry out neighborhood revitalization; and

Are an integral part of the housing and community development plans of the appropriate governmental jurisdiction.

Finally, the Secretary would set aside such amounts as the Secretary deems appropriate to carry out training, information, and technical assistance activities in connection with the LIFT program.

In many physically and economically needy urban neighborhoods and rural communities, specific types of development—such as neighborhood shopping centers, other commercial developments, light industrial projects, or large-scale, mixed-use developments (such as a public/private "town center" cluster of activities)—are sorely needed. However, businesses continue to avoid investing their funds in these areas, both for real and perceived risks, and in fact, many existing businesses continue to reduce their exposure in such distressed areas and continue to withdraw facilities, services, and jobs. This contributes to downward spiral in the neighborhood's local economy causing additional businesses to close, thereby further exacerbating the economical distress of the neighborhood. As each additional closure ripples through the lives of the residents, unemployment increases, housing falls into disrepair, the strain on social services grows, and the fabric of the community disintegrates further.

This neighborhood-based initiative addresses this problem by providing HUD the ability to help localities and community-based organizations promote economic revitalization and community-building. The first component of the program would provide a flexible targeted source of funds to assist individual development projects in "neighborhoods of need". CDBG funds are often insufficient to capitalize the needs of economic revitalization projects and cannot be committed beyond the one-year budget cycle. Because such scale and timing issues are critical for project-based assistance, communities need a program that operates outside the CDBG decision-making process.

The second element of the program fills a critical gap in the available arsenal of tools to bring about the physical and economic revitalization of needy neighborhoods by offering businesses sufficient economic incentive to be a catalyst. Both the CDBG program and the Section 108 Loan Guarantee program are seen as necessary components of a community's strategy that complement LIFT. LIFT funds would provide investment for larger scale projects, up to $5 million, and act as a catalyst to support smaller scale economic development projects traditionally undertaken with CDBG funds. In a similar fashion, LIFT will complement the Section 108 Loan Guarantee program by providing funds for those larger development projects that need a source of extremely patient secondary financing that are able to wait for periods of five to ten years before a business reaches an acceptable level of profitability.

The second element is envisioned as a pool of funds to be used to leverage private investment by providing the gap financing, including debt service reserves, necessary to make an otherwise unfeasible project's financing work. Grantees could support

projects through grants, loans, or credit enhancement. Uses would be flexible to encourage innovation and tailoring to local needs and project circumstances. The competition would provide additional preferences to income-generating projects, that economically empower residents to carry out additional neighborhood-based economic development projects. Based on previous Federal experience, the leveraging power of these dollars could be expected to be $3-$5 of private investment to every $1 of federal investment—or $600 million to $1 billion in additional investment.

Through this program, the Federal government will start the engines of growth and revitalization in needy urban neighborhoods and rural communities by creating an environment that generates outside investment, creates jobs for residents, and creates opportunities for long-term capital formation that empowers its residents.

Subtitle B—Community viability fund

This subtitle would amend the John Heinz Neighborhood Development program to create a new grant and recognition award program that is designed to enhance the viability of the Nation's communities. The grant and recognition awards programs would be funded at $130 million. Seventy-five percent of the grants awarded would be allocated through competition and 25 percent allocated at the discretion of the Secretary.

Strategic Planning and Urban Design

The first component of the new program would provide grants to encourage strategic planning and urban design. Grants could be earmarked for the following types of activities:

Urban design and the development of public amenities in lower income neighborhoods that serve as a catalyst for, and result in, the renewal of the neighborhood;

Development and implementation of comprehensive plans that focus on local and metropolitan strategies which create sustainable community development at the neighborhood, city, and metropolitan level;

Expanding economic opportunities for persons of low and moderate income through areawide planning approaches that provide educational and employment opportunities for such persons;

Coordinated efforts that stimulate fair housing, further the deconcentration of the poor and minorities, reduce the isolation of income groups within communities, remove barriers to affordable housing development, and expand housing opportunities for persons of low and moderate income;

The conservation of important historic, visual, and cultural features; and

The development and implementation of comprehensive approaches that integrate poorer, inner-city neighborhoods into the greater metropolitan region.

Preference would be given to projects that include interagency and intergovernmental coordination of Federal, State, and local public, private, and non-profit resources in an integrated manner; represent an innovative approach to furthering the objectives of this section; and are part of an overall strategic revitalization plan.

Eligible applicants for strategic planning and urban design grants include States, units of general local government, and metropolitan, non-metropolitan, and regional planning agencies.

Community Institution Building and Neighborhood Development

The second element of the new program would provide grants to promote the development and expansion of community-based institutions, in particular community organizing in a manner that establishes new grass-roots community organizations in unorganized neighborhoods. Specifically, funds could be used to provide training, technical assistance, and capacity building for new and existing organizations and institutions; building the capacity of neighborhood organizations and institutions, such as Community Development Corporations, community banks, and credit unions; establishing new community-based organizations and institutions; and promoting joint ventures that expand housing, educational, and employment choices for inner city residents.

In addition, grantees would be able to use funds for "eligible neighborhood development activities," as defined in the John Heinz Neighborhood Development program under section 123 of the Housing and Urban-Rural Recovery Act of 1983. These activities include: creating permanent jobs in the neighborhood; establishing or expanding businesses within the neighborhood; developing, rehabilitating, or managing neighborhood housing stock; developing delivery mechanisms for essential services that have lasting benefit to the neighborhood; or planning, promoting, or financing voluntary neighborhood improvement efforts.

Preference would be given for activities that will:

Develop new grass-roots community organizations in previously unorganized areas that do not yet have the tract record necessary to secure project-based funding;

Develop new organizations that link housing, economic, and human development;

Coordinate with local law enforcement agencies or public housing agencies involving anti-crime initiatives like Operation Safe Home;

Leverage matching contributions to support a wide variety of community development initiatives from the private sector; foundations; colleges and universities; civic groups; social, cultural, religious, and other institutions; and the national service program in a manner that achieves greater long-term private sector support;

Build the managerial, financial, and administrative capacity of the applicant organization or the community organizations to which it proposes to provide services; and

Assist eligible neighborhood organizations currently eligible under the Heinz program.

Eligible applicants would include eligible neighborhood development organizations, non-profit organizations, and entities that assist such organizations in carrying out activities under this element of the Fund.

Recognition Awards

The recognition awards program would recognize excellence and innovation in the preparation and implementation of community-wide and regional strategies or activities that successfully further sustain community development by expanding fair housing opportunities; furthering economic revitalization; reducing economic isolation of income groups within communities and the region; expanding housing, educational, and employment choices for low- and moderate-income persons throughout a metropolitan area; and providing amenities in lower income neighborhoods that serve as a catalyst for, and result in, the neighborhood's revitalization.

Up to $10 million from the overall amounts appropriated for the Fund could be used:

To provide grants to, and to enter into contracts with, public and private organizations (including governmental, non-profit, and for-profit organizations) to assist in the analysis and selection of award recipients, the provision (directly or by contract) of technical assistance, and the dissemination of information used to carry out the programs authorized under subsections (b) and (c);

To defray the costs of the Secretary in administering the program authorized by this subsection, including (but not limited to) such costs as printing and disseminating information; holding conferences; establishing and using design juries selected by the Secretary; providing nominal awards to winning nominees; holding competitions for awards, including travel and per diem costs; and travel of award winners to attend follow-on conferences endorsed by the Secretary and to provide peer-to-peer assistance to other appropriate individuals and entities; and

To provide technical assistance, directly or by contract, to further the purposes of this subsection.

The plight of poorer communities over the past decade has grown increasingly grimmer—with soaring crime rates; disinvestment in commercial and residential properties; and the increasing inability of institutions, such as schools, churches, and neighborhood organizations, to address the growing problems that surround them. And yet, the evening news highlights one anecdotal story after another of how one group, be it city, church, nonprofit, or business has stepped forward with an innovative approach to address the problems in its neighborhood.

This proposal recognizes that government does not have all the answers. Innovative planning and design solutions to the problems of our communities must be discovered, recognized, and replicated, and new innovative solutions must continue to be nurtured, tested, and shared with all of our communities so that the best we can create can be utilized by all to begin to solve the problems facing America's communities.

This proposal focuses on capacity building and is designed to achieve a number of the goals of the Secretary that are not now being adequately addressed by other programs, such as the CDBG program: improving urban design and quality of life; areawide planning for strategic economic development; deconcentration of the poor and minorities; and capacity building for community-based organizations.

This program would give the Secretary an instrument to focus on improving the state of the art of community-building in a number of areas. It consolidates a number of the Secretary's priorities into a single program that permits a more comprehensive and interdisciplinary approach to addressing urban problems.

Subtitle C—Colonias assistance program

Subtitle C would establish a Colonias Assistance program to address the severe community development and housing needs of colonia residents in the Southwest border region. Funds would be used for the comprehensive, coordinated development of viable communities. This proposal also extends the existing CDBG Colonias set-aside mandate through FY 1997.

The Colonias Assistance program would provide comprehensive assistance which will bring about significant, permanent, solutions to needs in funded communities. Eligible activities would include:

All activities currently eligible for assistance under the Community Development Block Grant program and the HOME program;

Refinancing existing homeowner debt to convert the existing contracts-for-deed homeownership regimen into mortgages;

New housing construction, including self-help, energy-efficient and innovative housing design initiatives;

New subdivision development for affordable housing;

Re-platting and redevelopment of existing subdivisions; and

Infrastructure planning and construction necessary for the development of needed housing, economic development, and community facilities and amenities.

As in the Community Development Block Grant program, certain activities, such as the construction of buildings for the conduct of government, would not be eligible for funding under the program.

The new program would be funded at $100 million. Of this amount, 80 percent—$80 million—would be used to provide substantial assistance on a model basis to units of general local government, States, non-profit organizations, or entities or instrumentalities established under the authority of any of these entities. At least one project would be chosen in each of the four border States, and at least one project would be chosen in a metropolitan area. Projects would be selected at the Secretary's discretion, reflecting the Secretary's desire to consider a variety of solution models applied to a variety of needs situations.

In selecting projects for funding, the Secretary would consider the extent of needs in the colonia(s), the comprehensiveness of approach in addressing identified needs, the need to consider a variety of solutions to a variety of need situations, and the commitment of funding from other sources. Selection of projects would occur after negotiation with grantees and consultation with the affected States.

The remaining 20 percent—$20 million—would be distributed on a competitive basis in response to a request for proposals. A Notice of Fund Availability would be published announcing funding. Eligible applicants would be the same as for model program grants. Applicants could propose to work in one colonia or in multiple colonias in a county or region.

To help ensure that colonias in all States have access to funds, a portion of the $20 million would be set aside for benchmark allocations to the four States, based on objective need factors (such as poverty and population in eligible border-area counties). The Secretary would reserve the right to reallocate funds if there are insufficient viable proposals to fully use a State's benchmark allocation. The remainder of the $20 million, plus any portion of the benchmark allocations not awarded in a State, would be used to fund quality proposals regardless of their location.

Selection criteria would be established by the Secretary, and would include factors similar to those for the model program, above. Special consideration would be given to projects which represent a regional approach to problem-solving, and to proposals which demonstrate consistency with State action plans for colonia regions.

Colonias are severely distressed, rural, unplanned, predominantly unincorporated settlements located along the 2,000-mile United States-Mexico border. Due to a lack of affordable housing, colonias came into existence as a result of developers selling unimproved lots under high-interest bearing contracts for deed. Buyers generally constructed whatever limited dwellings or shelters they could afford. As a result, most colonias have inadequate roads and drainage, inadequate or non-existent water and/or sewer facilities, and grossly sub-standard housing.

In Texas, the extensive use of sales contracts, which allow the developer to retain title until the debt is fully paid, has prevented occupants from obtaining mortgage-secured home improvement financing. Residents are overwhelmingly very low-income Mexican-Americans with limited ability to pay off these contracts or make home improvements without assistance.

The extent of needs in colonias is massive. The State of Texas has identified some 1,200 communities occupied by an estimated 300,000 people. Smaller numbers of colonias exist in Arizona, California, and New Mexico. (Some estimates place the population of colonias as high as 500,000.) Current resources are woefully inadequate to even minimally provide for and address the infrastructure and housing needs of the burgeoning population. For example, the State of Texas estimates that it will cost nearly $700 million just for water and sewer service for colonia residents.

In section 916 of the Cranston-Gonzalez National Affordable Housing Act, Congress mandated a set-aside of up to 10% of State CDBG program allocations to Arizona, California, New Mexico, and Texas for use in colonias areas. For FY 1994, the sum of set-asides for the four States is about $12 million; Texas accounts for two-thirds of this amount.

Due to limited State CDBG colonias set-aside funds, the four border States give priority to applications related to planning and infrastructure activities with special consideration to those that propose first time water and sewer service. The funding of other critical areas necessary to the health and well-being of these communities has been woefully inadequate: construction of roads, housing, health care, education and training, employment, and human services.

The present State set-aside expires after FY 1994. The Colonias Assistance program would continue efforts to assist these States with colonias. However, neither the CDBG Colonias set-aside nor this infusion of Colonias Assistance program funds will alone be able to meet all the identified needs of colonias. Therefore, the set-aside mandate should be extended for three additional years. The Secretary will continue to determine the appropriate percentage after consultation with representatives of the interests of colonias.

Several States have taken steps to coordinate and maximize the use of existing resources through working groups of State, Federal, and local government officials. The Colonias Assistance program would build on, and support, existing coordination efforts, while striving to address the most pressing needs of residents. It would also encourage and support regional consortiums desiring to provide a comprehensive approach to address the needs of colonia residents on a Statewide or region-wide basis.

Subtitle D—Zone economic development initiative

Subtitle D would authorize the Secretary to make up to $500 million in Zone Economic Development Initiative (ZEDI) grants to localities in which Empowerment Zones and Enterprise Communities have been designated, to help them implement their strategic plans for economic revitalization. These grants would stimulate the economic revitalization of Zones and Communities by expanding business opportunities and job creation activities and stimulate the housing sector by providing project-based rental assistance certificates and funding other activities to construct or rehabilitate rental housing units for very low-income families and other housing assistance. See proposed sections 731, 732, and 733.

Localities in which Zones and Communities have been designated would be able to propose their projected mix of economic revitalization and housing activities to address their identified needs (see sections 733 and 734). These grant funds are also expected to leverage additional private, State, local and other Federal housing and economic revitalization resources under such programs as HUD's Section 108 Loan Guarantee program (see section 735), the Community Development Block Grant program, and SBA's One Stop Capital Shops.

For each approvable application, each urban Empowerment Zone would receive $50 million; each rural Zone would receive $20 million; and each Enterprise Community would receive $1.4 million (see section 734(b)). Amounts remaining after these allocations could be used for training and information activities in connection with the ZEDI program (see sections 733(c) and 737(b).

Comprehensive revitalization of Empowerment Zones and Enterprise Communities is a long and expensive process because it requires massive efforts for economic, human, and physical development. Tax incentives alone are not adequate to trigger total community revitalization. Part of the original Empowerment Zone concept of the Administration was that there were to be two grant programs: enterprise grants—which was a block grant for Empowerment Zones and Enterprise Communities—and safety and community policing grants. Since neither of these provisions were included in the final bill (instead, a $1 billion incremental Social Services Block grant was earmarked for Empowerment Zones and Enterprise Communities), there remains a large gap in Federal assistance to Empowerment Zones and Enterprise Communities which must be filled to ensure that they do not fail.

Zone Economic Development Grants will be able to provide some of the first visible signs that the Zone or Community is turning itself around by stimulating the investment in and construction or reconstruction of housing, businesses, and infrastructure. It is this tangible evidence of improvement to their community that motivates citizens, businesses, and local officials to continue to commit their energy and local, State, and Federal resources to the revitalization of the Zone or Community. It is particularly important that grant dollars be available for Enterprise Communities since most of the block grant funds and tax incentives are focused on the nine Empowerment Zones.

Subtitle E—Authorizations of appropriations, capacity building for community development and affordable housing

Section 741 would authorize appropriations of $20,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal year 1996, for the Capacity Building for Community Development and Affordable Housing program under section 4 of the HUD Demonstration Act of 1993.

Community Development Block Grants

Section 742 would amend title I of the Housing and Community Development Act of 1974 to provide for an authorization for appropriations for the Community Development Block Grant program of $4.4 billion for each of fiscal years 1995 and 1996, and for a loan limitation under section 108 of that program's legislation of $2.054 billion for each such year. The provision would also authorize the following activity under the special

purpose grants provision in section 107, for each of fiscal years 1995 and 1996:

$7 million under section 107(b)(1) for insular areas;

$6.5 million under section 107(b)(3) for historically Black colleges and universities;

$28 million under section 107(b)(4) for technical assistance;

$6 million under section 107(b)(5) for university related activities;

$2 million under section 107(b)(6) for readjustments;

$3 million under section 107(c) for work-study programs; and

Such sums as may be necessary for section 107(b)(2), the hold harmless provision.

Economic Development Initiative

Section 743 would authorize appropriations of $50 million for FY 1995 and such sums as may be necessary for FY 1996 for Economic Development Grants, under the new section 108(q) of the Housing and Community Development Act of 1974. For FY 1995, amounts in addition to the foregoing authorizations would be drawn from recapture Urban Development Action Grant funds, in accordance with a recent amendment to section 119 of such Act. Separate authorization for appropriation for the UDAG funds is not needed since these funds have already been appropriated. It is estimated that the recaptured UDAG funds will be $100 million in FY 1995, and so the program level would be $150 million.

TITLE VIII—MANAGEMENT REFORM

Subtitle A—Improve the allocation and use of assistance, limit section 8 contract rent adjustments for rents above section 8 existing housing FMRs

Section 801 would give HUD the authority to deny further section 8 contract rent increases based on annual adjustment factors (AAFs) wherever the contract rent for a unit in a section 8 new construction, substantial rehabilitation, or moderate rehabilitation project is more than the section 8 fair market rent (FMR), including any exception rents. To qualify for a rent adjustment where the contract rent exceeds the FMR, the owner would have to demonstrate to the Department that the contract rent, as it would be adjusted by the AAF, would not exceed rents for comparable unassisted units in the market area. The proposal would apply to all new construction, substantial rehabilitation, and moderate rehabilitation projects subject to rent adjustments using annual adjustment factors established under section 8(c)(2)(A) of the 1937 Act.

Roughly 75% of section 8 new construction, substantial rehabilitation, and moderate rehabilitation projects currently have section 8 contract rents above the section 8 existing housing FMRs. By contrast, two-thirds of all units rent for less than the FMR in the average metropolitan area. A lack of market discipline on operating expenses and years of cumulative rent increases based on AAFs are partly responsible for the current high rents in assisted properties that exceed the FMR, a benchmark for the cost of assisting households with tenant-based assistance and for apartment rents in the surrounding private market. Section 8 projects with contract rents that exceed the section 8 existing housing FMR should not receive automatic inflation adjustments to rents unless their owners can prove that the rents, as adjusted, would be in line with those in comparable, unassisted projects.

In general, while assisted projects continue to have a place in national low-income housing policy, HUD can no longer afford to oversubsidize projects. "Material differences" do exist between assisted and unassisted properties. The money the Department spends on rental assistance helps fewer households when it is tied to unreasonably high-rent projects. Public confidence in HUD programs is also undermined whenever HUD is seen to be paying rents well above the going rate or continuing to prop up undeserving projects.

Provide incentives to refinance high interest mortgages for section 8 projects

As an incentive to owners to refinance high-interest rate mortgages that were used to finance section 8 new construction, substantial rehabilitation, and moderate rehabilitation projects, section 802 would allow HUD to spend some of the first-year savings in section 8 assistance to cover-up front costs to the owner of refinancing under sections 223(a)(7) and 223(f).

Many section 8 new construction, substantial rehabilitation, and moderate rehabilitation projects were built and financed when interest rates were higher than today. These mortgages should be refinanced to reduce debt service and section 8 contract rents. To date, there has not been much incentive for owners to refinance, because they would incur significant refinancing costs, whereas the savings would belong to HUD via a reduction in assisted rents. The policy of sharing 10% of savings with an owner has not proven sufficient. Remaining high-interest rate mortgages will be refinanced if HUD removes the disincentive of up-front costs and provides the owner with additional inducement to save the government money.

The Budget reflects significant savings each year in reduced debt service, but lower net savings in FY 1995 due to offsetting expenditures to cover the up-front costs of refinancing. The budget estimates that $25 million spent in FY 1995 would generate $27 million in section 8 savings in FY 1995 and each subsequent year.

LMSA reforms

Section 803 would amend section 8(v)(1) of the 1937 Act to remove the requirement that HUD renew all Section 8 Loan Management Set-Aside (LMSA) contracts at contract expiration if the owner agrees to continue providing housing for low-income families during the term of the contract. In addition, this proposal would give HUD authority to reduce the number of units that may be assisted under a LMSA contract when a family moves from a unit. Projects receiving LMSA as part of an incentives packaged under ELIHPA or LIHPRHA would be excluded, since reducing their assistance could lead to prepayments.

The LMSA program provides project-based assistance to replace older Rent Supplement and rental assistance payment (RAP) contracts ("conversions") and, on a competitive basis, to provide assistance for troubled properties to reduce vacancies or increase rental income ("remedial" LMSA). Congress in 1987 began requiring HUD to renew all contracts as project-based assistance regardless of whether the project needs additional assistance to maintain financial stability or is providing housing for such low quality that it should no longer receive assistance.

Project-based rental assistance provided to FHA-insured projects that once needed it should not be automatically and indefinitely continued. Department research suggests that some projects receiving LMSA could survive without it; some others continue to be physically or financially distressed—and fail to provide decent, safe, and sanitary housing—even after receiving substantial assistance. In such projects, HUD believes that projects should not continue to receive project subsidies. Public confidence in HUD programs is undermined whenever HUD is seen to be propping up undeserving projects. To protect assisted tenants, the Budget permits HUD to discontinue ("attrit") additional LMSA assistance when a family moves.

The Budget assumes that 4% of LMSA units lose their assistance due to turnover or vacancy. This represents about one-third of normal turnover. HUD should have flexibility to determine which units—to be selected using its Comprehensive Multifamily Servicing procedures—would return to unassisted status. They could be concentrated in a few projects or spread out over many.

Reduce AAF for units where family has not moved since previous year

For the section 8 new construction, substantial rehabilitation, moderate rehabilitation, LMSA, PD, and certificate programs, section 804 would amend section 8(c)(2)(A) of the 1937 Act to permit adjustment of contract rents using the published AAF, adjusted so that any rent increase would be one percentage point[11] less than the adjustment based on the published factor, for any unit occupied by the same family at the time of the last contract rent adjustment. In many cases, contract rents will not be eligible for adjustment due to the limitation proposed in section 801 of this bill limiting adjustments of section 8 rents above the section 8 existing housing FMR. This reduction for "stayers" would only apply to contract rent adjustments that would otherwise be granted in full.

Because the costs to owners of turnover-related vacancies, maintenance, and marketing are lower for long-term stable tenants, these tenants are typically charged less than recent movers in the unassisted market. Since HUD pays the full amount of any rent increases for assisted tenants in section 8 projects and under the Certificate program, HUD should expect to benefit from this "tenure discount." Turnover is lower in assisted properties than in the unassisted market, so the effect of the current inconsistency with market-based rent increases is exacerbated.

Preference for working families

Section 805 would amend section 6(c)(4)(A)(ii) and section 8 (d)(1)(A)(ii) of the 1937 Act to include, as an example of allowable local preferences, a preference for admission to public and assisted housing based on an applicant's employment.

In addition, it would revise the phrase added at the end of the penultimate sentence of section 16(c) by section 105 of the HCD Act of 1992, so that the phrase reads "except that such prohibition shall not apply with respect to families selected for occupancy in public housing." This proposal would delete the remainder of that phrase, which currently reads "under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)."

Numerous PHAs have expressed interest in having a preference for working families. They argue that implementation of such a preference would give them a better income mix among tenants, as required by section 6(c)(4)(a)(iv); provide role models to encourage other families to strive for self-sufficiency; and result in higher rent collections, a need for less operating subsidy and a savings for the department. Adding an employment preference as an example of an allowable local preference would increase the number of employed persons in the public

and assisted housing programs. It would provide the necessary vehicle for improving the representation of working families, who can serve as role models, particularly in the project-based programs. It would also provide a work incentive to low-income applicants, by offering an advantage, in the admissions process, to those with earned income. In some cases, it could result in serving more families, of still quite limited means, who could pay somewhat higher rents, with cost savings to the Federal Government.

At present, among those very low-income nonelderly families that are eligible for the assisted housing programs, a majority include one or more employed members. Yet, for example, among nonelderly families now residing in public housing, only 28 percent are employed. Including an employment preference as a example of an allowable local preference would provide a basis for overcoming this under-representation of working families in the public and assisted housing programs.

Of course, any local preference based on employment would have to take into consideration the inability of some disabled persons to work. By definition, those who qualify as "disabled" under section 223 of the Social Security Act, are, essentially, unable to work.

This proposal would amend section 16(c) to clarify the exemption for public housing from the restrictions placed on project owners in connection with admitting relatively higher income applicants over relatively lower income applicants.

Section 16(c) prohibits project owners from selecting families in an order different from the order on the waiting list for the purpose of selecting relatively higher income families. The HCD Act of 1992 exempted from this prohibition those families selected for occupancy in public housing under the system of local preferences. Congress' intention in 1992 seems to have been to clarify that the prohibition in section 16(c) should not apply to public housing at all. Because the 1992 amendment applied only to local preferences, however, the effect of this amendment was to require public housing agencies (PHAs) interested in obtaining a better income balance in their tenant population to establish a dual tenant selection system.

The particular language used appears to have inadvertently created an excessive and unnecessary administrative burden on PHAs. Deleting the words "under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)" would alleviate this burden and more closely track the apparent intention of Congress.

Use of technical assistance funds by or for HUD staff

Section 806 would amend the Department of Housing and Urban Development Act to include general authority for the Secretary to use for training and technical assistance provided by or to HUD staff any money appropriated to any program that includes a technical assistance statutory authorization. No more than 10% of the amount available for transfer could be used for technical assistance, training, travel, and related expenses provided *to* HUD staff. The amount transferred would have to be used for a program that is funded from an account from which amounts are transferred.

The Secretary currently has authority to use program money in at least six programs to provide for training of staff of the recipients of funding, but cannot use program funding for parallel training of the HUD staff. With severe staffing limitations, maintaining high productivity among HUD employees becomes increasingly crucial to continued operations, and continuing training is central to this productivity. Similarly, with severe limitations on funding for salaries and expenses, every opportunity to obtain services for the Department, including training, at rock bottom rates must be seized. In this connection, there is currently an anomaly under which HUD can use program money to train staff of funding recipients, but cannot by and large take advantage of the same training sessions for the parallel training of its own employees.

This amendment would, first, remedy the foregoing situation by permitting a transfer of a reasonable amount of HUD's Salaries and Expenses account to cover the salaries, transportation, and other costs of HUD employees who are being trained in a program. The amendment would thus leave in the Salaries and Expenses account the costs of training of HUD employees that were not program-specific or were for a program that has no authorization for technical assistance. Second, the amendment would permit program funds to be used to pay for the salaries and expenses of HUD staff, whenever they provide training or technical assistance in a program the statutory authority for which includes technical assistance.

Subtitle B—Office of public and Indian housing, oversight, technical assistance, emergency action resources, and resident survey for public housing programs

Section 811 would authorize a set-aside of up to 1% from the annual appropriation of modernization funding and up to ½ of one percent from the annual appropriation of development funding to be used (a) to contract with entities with the expertise to assist in the oversight of the Public and Indian Housing Modernization program and (b) to provide the Secretary with expert technical resources for training and technical assistance, and to assist in the management of public and Indian housing agencies, including funding of resident surveys.

Contracts would be awarded to: (a) hire inspectors to conduct inspections, appraisals, cost estimates, and monitor the quality of work; (b) provide a resource for emergency response actions ranging from "SWAT teams" to PHA takeovers; and (c) administer resident satisfaction surveys to a national sample of public housing residents. The set-aside would also be used (d) to provide training, and expert technical assistance and diagnostic support to PHAs with regard to administrative, technical or financial system improvements, or management deficiencies. When the training or technical assistance is being provided to PHAs, the set-aside would also be available to pay for training and related HUD staff costs.

Inspections

Recent amendments to the Comprehensive Grant program (section 14(e)(4)(B)) and the Public Housing Management Assessment (PHMAP) program (sections 6(j)(1) and (4)) place additional monitoring responsibilities on the Department. In order to carry out these responsibilities, the Department's proposal would give HUD the discretion to contract with firms to inspect work underway.

Inspectors would be able to use program funds to perform periodic on-site reviews of physical and management improvements as directed by the HUD field office. Inadequate staff and travel resources, from the Salaries and Expenses Account, have limited the frequency of HUD on-site monitoring in the past. Where risk analysis indicates more frequent on-site monitoring of a PHA is appropriate, the HUD field staff may direct an inspector to perform the review. Typically, PHAs which manage complex Modernization programs, have limited staff capacity, or have had recent problems, require regular monitoring visits. Inspectors would be required to examine the physical rehabilitation work and the procurement contracts during these visits.

Under the development program, inspectors would review the quality and timeliness of HA construction activities, including activities under Major Reconstruction of Obsolete Projects, and report back to the field office with recommendations for corrective actions.

Expert Technical Assistance

To address management deficiencies, contracts would be awarded to conduct in-depth reviews of targeted PHAs and make recommendations on management or technical improvements, including training needs. The contractors would work with the PHAs to diagnose problems, develop systems, and/or improve aspects of major functional areas such as maintenance, construction management systems, procurement, or financial management. Areas of weakness would also be identified by the PHMAP evaluation, the Administrative Capability Assessment, IG reports, and monitoring and field reviews. When training and technical assistance is provided by contractors, related HUD staff costs, such as the travel costs necessary to insure the presence of HUD staff at the training, could be paid from these funds. Previously, the Salaries and Expense Account was the only source for HUD staff travel costs.

Technical assistance and training could also be provided with the assistance of contractors for the purpose of helping PHAs make use of the Comprehensive Grant Program Loan Guarantee program, which will make it possible for PHAs to borrow against their future CGP allocations in order to address the needs of projects which need significant levels of work now.

Emergency Response Resource

Contracts would be awarded to provide the Secretary with readily available expert resources to conduct emergency actions as necessary, including sending "SWAT teams" of experts to PHAs to assess critical problems and resolve them, and for interventions and takeovers. In the past, HUD has not had a continuing resource base to use in addressing emergency situations in PHAs and has had to rely on ad hoc measures and available expertise. This would provide the Secretary with the capability, through access to highly skilled, multi-disciplinary expert resources, to act swiftly in emergency situations with the appropriate array of management, finance/accounting, and/or automated data processing (ADP) expertise necessary.

Resident Satisfaction Survey

Executive Order 12862 of September 11, 1993, requires Federal agencies to survey customers "to determine the kind and quality of services they want and their level of satisfaction with existing services." An on-going survey of public housing residents, which would be administered by HUD, would serve as one part of HUD's overall response to Executive Order 12862. Survey results, as analyzed by HUD, would include data from about 120 randomly selected PHAs, and would be used to provide guidance to the Department in setting policies and procedures, monitoring, and providing technical assistance on a program-wide basis.

The survey instrument will also be available to PHAs not included in the sample when the PHA management wants feedback from its residents and is willing to pay for the cost of the survey.

The estimated cost of the survey on an annual basis is $1.2 million. The cost of survey coverage for a typical medium-to-large PHA would be $10,000 (200 completed surveys @ $50 per survey).

Recapture of development amounts

Section 812 would amend section 5(k) of the U.S. Housing Act of 1937 to give the Secretary discretion to recapture amounts reserved for development of specific public housing projects without waiting the entire 30-month period that is now required. This discretion could be exercised in situations where the Secretary makes a specific finding that there is no feasible way for the project to begin construction or rehabilitation, or to complete acquisition, within the 30-month period. The amendment would preserve the 30-month period as the normal minimum time period for start of construction, rehabilitation, or acquisition, and retain the exclusions from the time period for factors beyond the control of the public housing agency.

The amendment would tend to increase pressure on public housing agencies and Indian housing authorities to implement as quickly as reasonably possible the development projects for which they have funding reservations. The amendment would also provide HUD with more flexibility in the management of public housing development funding. In this regard, amounts recaptured under the amendment—like amounts recaptured under the present 30-month minimum rule—may be made available sooner than would be otherwise possible to fund other assisted housing projects, or to accomplish budget goals, as enacted under subsequent laws.

If a project ceases to be feasible, even at a different site or reformulated, then there would seem to be no useful purpose in preventing the Secretary from acting to recapture the funding, and reserve it for another project, before the arbitrary 30-month minimum waiting period now in section 5(k) has elapsed.

Subtitle C—Office of housing, section 235 refinancing

Section 821 would make the refinancing of mortgages under section 235(r) of the National Housing Act more feasible. This proposal is designed to implement the objective of the recommendation of the Report of the National Performance Review (NPR), issued on September 7, 1993, that HUD should speed savings from refinancing expensive, old section 235 mortgages subsidized by HUD.

Section 235(r) of the National Housing Act gives HUD the authority to pay the mortgagor an incentive to refinance and to pay the mortgagor for costs incurred in connection with the refinancing. The refinancing program does not have a source of funding absent an appropriation, which has not occurred since section 235(r) was enacted as part of the HUD Reform Act of 1989. In the absence of funding for incentives and closing costs, the program has not resulted in refinancing existing 235 mortgages. Because a mortgagor already benefits from an interest reduction subsidy that brings its debt service payment below current market rates, a mortgagor does not have the traditional economic incentive to refinance, since its monthly payment is not reduced as a result of the refinancing.

This proposal would implement the objective of the recommendation of the NPR report by giving HUD the authority to pay for incentives to both the mortgagor and the mortgagee to refinance section 235 mortgages (see paragraph (2)). In addition, this proposal would give HUD the authority to include the costs incurred in connection with the refinancing in the new mortgage (see paragraph (1)). Finally, this proposal would give HUD the authority to use funds recaptured from assistance payments contracts relating to mortgages that are being refinanced to pay for refinancing costs and incentives (see paragraph (3)).

The additional incentives and a source of funding are necessary to encourage mortgagors and mortgagees to refinance section 235 mortgages. Presently, there are 35,000 section 235 mortgages with interest rates at or above 10%, insured for over $1.3 billion. Savings to the Treasury from refinancing would significantly exceed the HUD payment of refinancing costs and incentives.

Elimination of new activity in low-use FHA multifamily development programs

Section 822 would require HUD to stop accepting requests for mortgage insurance under the six multifamily development programs listed below. The proposed statutory language would preclude HUD from accepting applications, effective 30 days after the date the law is enacted, but keep all other existing authority in place. Continued statutory authority would support processing and insurance of applications in the pipeline and management and disposition activities on loans insured under these programs.

The programs listed below are seldom used and the rental and cooperative housing produced under these programs can be produced under other HUD programs that are actively used, familiar to HUD staff, and often more advantageous to both borrowers and lenders. Eliminating new activity in these low-use programs would benefit both Headquarters and the Field. Headquarters would have fewer regulations, handbooks, and data systems to keep current. Field staff would no longer need to keep abreast of these programs' rarely used processing procedures. The list below identifies the programs for which new activity should be terminated and any alternate FHA programs owners could use.

Section 207 Manufactured Housing Parks.—Since mobile home parks cannot be insured under any other FHA program, this proposal would end FHA insurance of new manufactured housing parks. FHA has insured only one manufactured housing park this year and has only 39 loans in force on these parks.

Section 207 New Construction (NC)/Substantial Rehabilitation (SR) Rental Housing.—NC/SR rental projects could be insured under Section 221(d)(4) which has more favorable underwriting criteria. Note: HUD would still accept applications for existing cooperatives and rentals that will be processed under section 223(f) and insured under section 207.

Section 231 Elderly Rentals.—Mortgages can be insured under section 221(d)(3) for nonprofit sponsors and under section 221(d)(4) for profit-motivated developers.

Section 220 in Urban Renewal and Concentrated Development Areas.—Section 221(d)(4) can be used for NC/SR insurance.

Section 234(d) Condominiums. Individual units in condominium projects can be insured under section 234(c). Developers sought project-wide 234(d) insurance when legislation required that individual units within a condominium project could be insured only after the condominium had been processed and insured as a multifamily project. The statutory requirement for project processing has been repealed, and HUD rarely receives an application for FHA project mortgage insurance.

Title XI Group Practice Medical Facilities. HUD has insured only five loans under this program.

Indemnification for project managers

Section 823 would make explicit the Secretary's authority to indemnify certain project managers against claims by third parties for death, bodily injury, and property damage. The covered project managers would be those under contract with HUD to manage HUD-acquired projects in the HUD multifamily property disposition program. HUD contracts with project managers to operate, repair, and maintain these multifamily projects that are HUD-owned or where HUD is the mortgagee-in-possession.

Prior to 1977: Project managers purchased comprehensive general liability insurance coverage for themselves and the project owners, but not for HUD. Generally, the cost was a project expense paid from rent receipts.

1977–1984: In 1977, HUD determined it was more cost-effective to purchase a nationwide blanket insurance policy for all of its contract project managers. HUD was one of the named insureds on these policies, along with each project manager and each project manager's employees. In 1984, the insurance carrier providing the coverage went into receivership and HUD was unable to purchase a replacement policy at a reasonable cost.

1985–Present: Beginning in 1985, because of the unavailability of liability insurance, HUD undertook to indemnify project managers as specified in each manager's contract with HUD. The practice of indemnification continues at this time because of the continued unavailability of suitable blanket insurance arrangements and the relatively small amounts paid under the indemnification arrangements. Currently, HUD contracts with project managers provide that HUD will indemnify the manager for tort claims involving personal injuries, wrongful death, or property damage that resulted from the manager's performance under HUD contracts. Indemnification is limited to an aggregate of $500,000 for all claims per occurrence, arising from the same set of facts. The contracts further provide that indemnification is subject to the availability of appropriations.

As recently as 1991, HUD issued a request for proposals (RFP) for a blanket insurance policy to cover all project managers; no proposals were received under the solicitation. HUD believes that no insurance company will provide a blanket insurance policy at a reasonable cost. Although HUD believes individual insurance policies may now be available to most projects on a project-by-project or project manager-by-project manager basis, insurance will not be available for certain managers for certain projects because of those projects are in deteriorated condition and are more susceptible to having significant insurance claims. Moreover, HUD believes the total cost of such insurance, estimated at over $4 million per year, if purchased on a projected-by-project basis, will far exceed the amount of claims paid by the Department under its indemnification program to date of approximately $100,000 to $200,000 per year.

In support of its practice of indemnifying these project managers, HUD has relied on sections of the National Housing Act which give the Secretary broad authority to pay

out of the General Insurance Fund all expenses or charges in connection with properties the Secretary acquires.

Notwithstanding the Secretary's broad authority, there is case law which indicates that specific statutory authority is necessary for an agency to indemnify. Accordingly, the proposed statutory provision would clarify the Secretary's authority to indemnify multifamily project managers.

Subtitle D—Office of Community Planning and Development

Management information systems

Section 831 would authorize the secretary to set aside up to 0.5% of the CDBG appropriation for each of FYs 1995 and 1996 for improving CDBG management information systems used by the Department and CDBG grantees. The funds primarily would be used to develop and support a state-of-the-art consolidated data system for the existing four CPD formula programs. The system would accomplish the following:

Provide basic fund control for program expenditures.

Correct material weaknesses cited by the Inspector General, concerning the reporting of accurate and timely information on program activities.

Develop performance reporting systems on program accomplishments to improve the management CPD programs.

Purchase software and hardware needed.

Train grantees and HUD field staff in new systems.

Input national demographic data to assist local jurisdictions in program formulation.

CDBG reallocations

Section 832 would repeal the amendment to section 106(c) made by section 933 of the National Affordable Housing Act. Section 933 directs the Secretary to make available to metropolitan cities and urban counties affected by disasters any amounts that become available as a result of HUD actions taken under section 104(e) or 111. The Secretary is directed to provide for applications for assistance under section 933, and such assistance may only be made available to metropolitan cities and urban counties within the three-year period beginning on the date of the disaster declaration by the President.

Funds recovered under sections 104(e) and 111 are received by HUD on a sporadic, unpredictable basis, usually in amounts less than $200,000. Rarely has the Department accumulated an aggregate amount exceeding $3 million in any fiscal year. Administration of the distribution of these funds is complicated by the statutory requirement that a changing universe of eligible applicants is to be served pursuant to section 106(c)(4)(F). Since this universe can range from 250–350 jurisdictions at any time, HUD has determined that requests for applications from potential grantees should only be issued when a significant amount of funds (at least $5 million) becomes available for reallocation. Raising the expectations of a large number of potential grantees for *de minimis* incremental amounts of disaster assistance could be counterproductive as there would always be a substantial number of unfunded applications.

In addition, the disaster authorities of FEMA and other agencies are normally the first lines of aid preferred by the Federal Government. Section 933 only provides an occasional, minuscule increment to funds available. When a very large disaster, such as Hurricane Andrew occurs, the pattern of the HUD response has involved the use of special supplemental appropriations, making any section 933 aid superfluous.

Use of UDAG recaptures

Section 832 would make a technical change to section 119(o) of the Housing and Community Development Act of 1974. This provision establishes a pool of funds for the new Economic Development Grants initiative under section 108(q) of the Act (as added by section 232(a) of the Multifamily Housing Property Disposition Reform Act of 1994). The pool is comprised of UDAG recaptures that are available as of October 1, 1993 and amounts released to HUD after the 90-day moratorium period under the UDAG Retention program (section 108(t) of the 1974 Act).

The amendment would change the date for determining the first element of the pool from October 1, 1993 to April 11, 1994, the date of enactment of the Property Disposition Reform Act. The original legislation was intended for enactment in the summer of 1993. The October 1 date was designed to commence the program for fiscal year 1994. Although the legislation was enacted in April 1994, the October date was not adjusted. This change would correct this situation, and would permit more rapid implementation of the Economic Development Grants program.

Subtitle E—Nonjudicial foreclosure of defaulted single family mortgages

The proposed Single Family Foreclosure Act would authorize the non-judicial foreclosure of defaulted single family mortgages. The new authority would be patterned after the Multifamily Mortgage Foreclosure Act of 1981 (Multifamily Act). The Multifamily Act created a non-judicial foreclosure mechanism for HUD in connection with certain multifamily mortgages held by the Department pursuant to the National Housing Act and section 312 of the Housing Act of 1964.

The reasons for this proposal are essentially the same as those which led to passage of the Multifamily Act:

The multiplicity of State laws under which HUD forecloses defaulted mortgages burdens the programs involved, and is detrimental to the properties and to the communities in which they are located.

Long periods to complete foreclosures under certain State laws lead to deterioration in the condition of the properties involved; necessitate substantial Federal management and holding expenditures; increase the risk of vandalism, fire loss, depreciation, damage, and waste; and adversely affect the neighborhoods in which the properties are located.

These conditions seriously impair HUD's ability to protect the Federal financial interest in the affected properties and frustrate attainment of the objectives of the underlying program authority.

The availability of a uniform and more expeditious, non-judicial foreclosure procedure would ameliorate these conditions and would relieve the burden on an already clogged judicial system by removing these cases from the courts. It would also further the FHA Reform objectives contained in the HUD Reform Act and the National Affordable Housing Act of ensuring that the Department administer its programs in a business-like and financially sound manner.

This proposal would create a non-judicial foreclosure remedy for single family mortgages that are held by HUD pursuant to title I or title II of the National House Act or were obligated pursuant to section 312 of the Housing Act of 1964. Specifically, the proposal would cover any mortgage that:

Covers a one- to four-family dwelling and was previously insured under title I or title II of the National Housing Act, and has been acquired and is being held by HUD by reason of assignment or otherwise, or that HUD holds following acquisition and subsequent transfer of the property pursuant to a purchase money mortgage agreement; or

Covers a one- to four-family dwelling that HUD holds pursuant to section 312 (except that when a one- to four-family dwelling is combined with non-residential space in a "mixed-use" project, the mortgage is covered by the Multifamily Foreclosure Act).

The proposed remedy would be available for use by the Secretary in connection with any mortgage covering these properties, irrespective of its date of execution.

The procedure contemplated is similar to the deed of trust foreclosure approach caused in approximately half of the States. The proposed Act would be procedural only, and is not intended to affect substantive rights, except as explicitly set out therein. To the extent that a mortgagor has equitable defenses, it would be free to seek injunctive relieve against foreclosure in the courts.

The proposed Act is important to the Department's single family mortgage insurance program and other collection efforts. Lengthy delays in foreclosing defaulted mortgages caused by excessive foreclosure periods in some States increase the risk of property deterioration, vandalism, and waste. The resulting loss to the Department (including its mortgage insurance funds) and the taxpayer in terms of increased management and holding expenses is substantial. Moreover, these conditions impose a severe hardship on the neighborhoods in which the properties are located. The proposed legislation would ameliorate this situation by providing an efficient, equitable and, most important, relatively expeditious non-judicial foreclosure remedy.

The availability of an expeditious foreclosure remedy would also provide HUD with the flexibility needed to deal with defaulted single family mortgages in a manner designed to promote the best interests of the owners and residents of the properties involved, the government, and the communities in which the security properties are located. In certain instances, some delay in instituting foreclosure proceedings would give a deserving mortgagor the opportunity to bring the mortgage current or cure a nonmonetary default, thereby ensuring that the interests of the mortgagor, the tenants, and the government are best served. The expeditious foreclosure remedy contemplated by the bill would permit such a delay while at the same time assuring that, if a relatively brief delay is later found not to have been warranted, the mortgage could be foreclosed in a timely fashion. In contrast, the cumbersome, time-consuming foreclosure procedures in some States require that, as a practical matter, because it is so difficult to complete the process, HUD limit forbearance prior to initiating foreclosure.

In addition, the non-judicial foreclosure procedure contemplated by the proposal would be far less costly than foreclosures conducted under State laws requiring judicial process. The savings occasioned by this measure would accrue not only to the taxpayers but also to the defaulting property owner, since foreclosure costs are typically deducted from the mortgagor's share of sale proceeds. Finally, the proposal would relieve the courts of the burden of entertaining judicial foreclosures of mortgages subject to the proposed Act.

The proposed Act sets forth in detail the procedures to be followed for foreclosure. The principal features of these procedures are:

The Secretary of Housing and Urban Development would designate a foreclosure commissioner, who would be empowered to sell the property involved in accordance with the requirements of the Act. The foreclosure commissioner would have to be competent to conduct the foreclosure. (Sec. 845)

The foreclosure commissioner would commence the foreclosure upon the request of the Secretary where a default or other breach for which foreclosure is authorized by the mortgage or applicable agreement has occurred. (Secs. 846 and 848)

The foreclosure would be commenced with service of a Notice of Default and Foreclosure Sale. (Sec. 847) The Notice would set forth information relevant to the sale and would be published in a newspaper of general circulation once a week for three weeks; and sent by certified or registered mail, return receipt requested, to the owner, all present and past mortgagors (except those that have been released), occupants, and lienors. The Notice would be sent to all the parties, except lienors, 21 days before the sale; it would be sent at least 21 days before the sale to lienors. (Secs. 848 and 849)

Specific provisions would prescribe the conduct of the proceeding prior to sale, the sale itself, the allowance of foreclosure costs, the disposition of sale proceeds, the transfer of title and possession, and the record of foreclosure and sale. (Secs. 850–855)

There would be no right of redemption. (Sec. 854) The proposed Act contains its own redemption provision, and would not rely upon section 204(l) of the National Housing Act and section 701 of the Department of Housing and Urban Development Reform Act of 1989, which provides that there shall be no right of redemption when HUD forecloses on a single family mortgage, so that this bill may provide for a complete self-contained remedy.

Since foreclosure extinguishes property rights, the proposed Act contains numerous provisions to protect the mortgagor of the property subject to foreclosure sale, tenants, as well as other interested parties.

Major features include the following:

The foreclosure commissioner would have to be responsible, financially sound, and competent to conduct the foreclosure. (Sec. 845)

The commissioner would be specifically authorized to adjourn or cancel the sale if conditions are not conducive to a sale fair to the owner. (Sec. 851)

Even if not so provided in the mortgage instrument, the owner would have the right to have the mortgage reinstated one time by bringing the mortgage current or curing a nonmonetary default; subsequent reinstatement could be made at the discretion of the Secretary. (Sec. 850)

The provisions for publication and mailing of the Notice of Default and Foreclosure Sale are extensive and thorough.

Foreclosure by reason of monetary default could generally be based only upon total failure to meet an installment. (Sec. 846)

No other proceeding to foreclose the mortgage could be continued or initiated during the pendency of a foreclosure under the Act. (Sec. 846).

If a new commissioner is designated, foreclosure would continue unless the new commissioner finds that continuation would unfairly affect the interests of the mortgagor. (Sec. 848)

If a sale is adjourned to another day, a new Notice of Default and Foreclosure Sale would have to be served. (Sec. 851)

The requirement that occupants be notified would give notice to tenants and other occupants of a potential passage of title. (Sec. 849)

The requirement that lienors of record be notified would give opportunity for the third parties most likely to bid or purchase at foreclosure to do so. (Sec. 849)

The requirement that sale be by public auction would increase the chances of arriving at a sales price reflective of the value of the property. (Sec. 851)

Costs would be limited to out-of-pocket expenses and fees established by the Secretary. (Sec. 852)

Finally, the measure would specify that redemption periods under State law do not apply to mortgages foreclosed pursuant to the Act. (Sec. 854) If redemption periods provided under State law—up to 18 months or longer in some States—were applied to these mortgages, salability of the properties involved would be seriously impaired and their rehabilitation and improvement discouraged. Such a result would increase the Federal financial exposure and frustrate achievement of the programs' objectives and the national housing goals.

This legislation is important to HUD's single family housing programs, since it would help remedy lengthy State foreclosure procedures that have caused substantial losses to the government and the taxpayer and hardship to affected residents and neighborhoods. In addition, because of the expeditious foreclosure procedure contemplated by the proposed Act, the Department would be provided flexibility to deal with defaulted single family mortgages in a manner designed to promote the best interests of the owners and residents of affected properties, the Department, and the communities in which the security properties are located.

Of course, since foreclosure extinguishes property rights, the interest of the owner and other concerned parties deserve the fullest protection possible. As outlined above, the proposed Act contains extensive provisions to assure that all parties concerned are treated as fairly as possible.

TITLE IX—MISCELLANEOUS AMENDMENTS

OFHEO assessment collection dates

The authorizing legislation for the Office of Federal Housing Enterprise Oversight (OFHEO) provides for FNMA and FHLMC to supply the money for the operations of the Office through an annual assessment, to be paid in two payments each year. The statute provides for these payments to be made "on September 1 and March 1 of the year for which the assessment is made." (See section 1316(b)(2), Housing and Community Development Act of 1992.) While the money is supplied by these enterprises, it is deposited by the Office into the Treasury, and the use of this money, like any other money in the Treasury, is subject to appropriation. These payment dates, however, bear no relation to the annual appropriation process, which controls both the timing and the amount. The dates have unduly complicated the operations of the Office's and the Department's Salaries and Expenses accounts because they result in internal borrowing and lending being necessary to keep OFHEO solvent.

Section 901 would change the collection dates, to coordinate them with the fiscal year—October 1st and the next April 1st. In the event there is no regular appropriation in effect on October 1 of a given year, there would be a continuing resolution. OFHEO has adequate authority to specify the level and collect the October 1 payment on the assessment, under whatever terms a continuing resolution would specify (e.g., prior year operating level, House-passed level, etc.). Presumably, to the extent that the October collection, at the level indicated by the continuing resolution, differed from half the amount of the assessment for the year indicated by the regular appropriation if enacted, an appropriate adjustment could be made in the April collection.

Lead-based paint technical assistance amendments

Section 902 would broaden the Secretary's authority to carry out a comprehensive program to attack lead-based paint problems in the nation's housing. It would do so in two ways. First, it would permit the existing funding set-aside for research and technical activities in the programs, to be used for lead-based paint research under the Department's broader basic research authority, Title V of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1), including demonstrations, pilot testing of new or improved programs, public education on lead hazards, and the development of training modules on lead hazards. Second, it would permit the work under set-aside funding to be done by HUD staff or under contracts or other agreements.

The proposal would also set aside $5 million and $10 million for each of fiscal years 1995 and 1996 for technical assistance and capacity building for grantees, and for research and technical activities in the program, respectively.

The broadened authority and increased funding for set-asides are needed to permit the Secretary to conduct a broad, flexible, and balanced attack on childhood lead poisoning in housing, a problem that is viewed by health authorities as the number one preventable threat to children's health.

Lead-based paint, target housing hazard reduction program

Section 903 would authorize appropriations for the Lead-Based Paint Target housing Hazard Reduction Program at $100,000,000 for fiscal year 1995 and $100,000,000 for fiscal year 1996. Included within the authorizations are proposed set asides of $5,000,000 and $10,000,000 for each of fiscal years 1995 and 1996 for technical assistance and capacity building for grantees, and for research and technical activities in the program, respectively.

HUD research and development

Section 904 would authorize appropriations for HUD's research and development program at $40 million for each of fiscal years 1995 and 1996.

FOOTNOTES

[1] Generally, assigned mortgages are formerly insured mortgages that the Department has acquired following borrower default and payment of the mortgage insurance claim to the lender. Qualifying borrowers participate in the assignment program. This program is designed to provide defaulted mortgagors with up to three years of "forbearance assistance" so that they may resume full obligations under the mortgage by the end of the assistance period. If a mortgagor cannot do so, the Department forecloses on the mortgage.

[2] Section 203(b) is the FHA basic home mortgage insurance authority and its mortgages are obligations of the Mutual Mortgage Insurance fund (MMIF).

[3] Section 221(d)(2) is a special authority that insures mortgages that pose a greater risk of default, and is in the General insurance Fund (GIF).

[4] Such a mortgagor would, however, be eligible for a second assignment.

[5] A mortgagor in this category may have an outstanding delinquency.

[6] This would, however, only accelerate payments to the MMIF, or the other appropriate fund, since the mortgagor is making monthly payments to HUD under the assignment program.

[7] Children of low-income homeowning parents are 15% more likely to stay in school, and somewhat

less likely to bear children as teenagers or be arrested. See *Measuring the Benefits of homeowning: Effects on Children*, Richard K. Green and Michelle J. White, University of Chicago, February 1994.

[8] As added by section 164 of the Housing and Community Development Act of 1992.

[9] HUD already has the authority to impose a civil money penalty on an FHA-approved, nonsuprevised lender pursuant to section 536 of the National housing Act ("Civil Money Penalties against Mortgagees and Lenders") since failure to comply with HMDA is now a violation of an FHA handbook.

[10] FFIEC is the Federal Financial Institutions Examination Council, created by the 1980 Amendments to HMDA. The FFIEC is comprised of the five banking regulators: 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. HUD is not a member of FFIEC, but it does have voting delegates on the HMDA Subcommittee of the Consumer Compliance Task Force.

[11] Or less if the factor would result in an adjustment of less than one percent. For example, if the factor is 1.04, the adjustment would be based on a factor of 1.03. If the factor is 1.009, the factor would be reduced to 1.0 and the rents would not be adjusted.

[12] The Proposed Act would state that a legal newspaper that is accepted as a newspaper of legal record in the county or counties where the property is located would constitute a newspaper of general circulation.

Mr. SARBANES. Mr. President, I join Banking Committee Chairman DONALD RIEGLE today in introducing the Housing Choice and Community Investment Act of 1994. The Housing Choice and Community Investment Act of 1994 has been submitted to the Congress by the Secretary of the Department of Housing and Urban Development [HUD], Henry Cisneros, and reflects the administration's priorities of reducing homelessness, turning around public housing, expanding affordable housing, enforcing fair housing, and empowering communities. We certainly welcome the importance that the Clinton administration has placed on revitalizing America's communities.

This year, the Congress will need to reauthorize all of the Federal Government's housing programs. The legislation we introduce today on behalf of Secretary Cisneros embodies the administration's proposals for reauthorizing HUD's existing programs and for new programs to be administered by HUD. As chairman of the Senate Subcommittee on Housing and Urban Affairs, I intend to review the administration's proposals carefully.

Over the last 15 months, it has been my pleasure to work with Secretary Cisneros on two pieces of legislation—since signed into law—that reflect his thoughtful approach to HUD's mission. These new laws will improve HUD's performance by streamlining the multifamily property disposition process, reducing defaults on mortgages insured by HUD, removing certain barriers to the flexible use of the HOME Investment Partnerships Program, and sharing more responsibility with other partners in housing and community development activities. Equally important, the new legislation enacted last year allows the Secretary to test new approaches to solving housing and community development problems. We are looking forward to seeing the results of newly enacted demonstration programs that were recommended by the Secretary to test innovative solutions to the problems of homelessness, to encourage prudent and safe pension fund investment in affordable housing, to build the capacity of community-based nonprofits, and to enhance the community development loan guarantee program as an economic development tool.

Since his arrival, Secretary Cisneros has made tremendous strides in his efforts to make the Federal Government a stronger partner in revitalizing our Nation's communities. He has demonstrated great energy and vision in putting forth an agenda to improve HUD's management and get HUD moving forward again. He deserves our continued support for his efforts to restore HUD's credibility, to leverage new resources, and to strengthen partnerships between the Federal Government and other levels of government and the private sector. I look forward to working with Secretary Cisneros and his able team at HUD in shaping a reauthorization bill this year that will further their efforts. The Housing Choice and Community Investment Act of 1994, which we introduce today, is an important foundation for the reauthorization process that will now get underway.

By Mr. LEAHY (by request):

S. 2050. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1994

• Mr. LEAHY. Mr. President, after nearly a year's worth of work on the part of the Department of Agriculture, the Environmental Protection Agency, and the Food and Drug Administration, the administration presents to us today two pesticide reform bills. One amends the tolerance setting scheme of the Food, Drug, and Cosmetic Act, and one amends FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act, which governs the sale and use of pesticides. I am pleased that the administration has asked me to introduce its FIFRA amendments.

Most Americans probably believe that our food safety laws are based purely on health considerations that protect all Americans, including children. That is not true.

Most Americans probably believe that if pesticides do not meet such a standard, then they are removed from the market quickly. That is not true.

Finally, most Americans probably believe that farmers have plenty of alternative pest control methods if a pesticide is removed from the market. That is not true either.

Unfortunately, our system does not work this way, largely for historical reasons. Our food safety laws were primarily designed to address gross food contamination, not pesticide residues. They were not originally intended to be food safety laws at all. They were written to make sure that pesticides on the market actually worked for farmers. Our basic agricultural research and farm programs were conceived before pesticides were widely used, and well before pesticides on food became a national issue.

Despite attempts to connect and relate these laws over the years, they do not work in an integrated way to meet our national objectives. They are like using the wrong tool to repair an engine. Either the tool or the engine ends up broken.

After 12 years of delay and denial, we have a President who is committed to a thorough overhaul of our pesticide and food safety laws. The administration has put together a comprehensive proposal that I believe could lay a foundation for lasting reform.

Some of the reforms included in the administration's FIFRA bill are:

Changing cancellation and suspension proceedings from trial-type, adjudicatory hearings that can last years to notice and comment rulemaking proceedings;

Beefing up FIFRA enforcement authorities to the level of other environmental laws and adding whistleblower protection; citizen suits are also authorized, but not against farmers;

Requiring the Department of Health and Human Services and USDA, in conjunction with EPA, to collect all the data necessary to implement the recommendations of the National Academy of Sciences on pesticides in the diets of infants and children;

Recordkeeping for all agricultural uses of pesticides;

Giving registration applications that include three or more minor uses priority for review and extending exclusive data use rights; during reregistration, allowing unsupported minor crop uses to continue until the last study is due;

New authority for EPA to phase down or eliminate the use of a pesticide if it is reasonably likely to pose a significant risk to humans or the environment;

Authorizing pilot programs for pesticide use reduction;

Streamlining registration and extending exclusive data use rights for reduced risk pesticides;

Making pesticide registrations time-limited—registrations would automatically sunset after 15 years unless the registrant applied for a renewal and submitted any necessary health and safety data;

Additional authority to assess fees to cover the $20 million projected shortfall in the reregistration budget; and

Coordinating tolerance revocations under the Food, Drug, and Cosmetic Act [FFDCA] with FIFRA cancellation proceedings.

The bill also includes a provision to stop some pesticides that are banned in the United States from ending up in our food supply on imported food. This part of the bill differs from the circle of poison bill that I introduced in the last Congress, particularly in its treatment of never-registered pesticides. Nevertheless, I remain confident that these differences can be resolved in a manner that will protect consumers and level the playing field for farmers.

This bill has taken a long time to write. Nonetheless, the President has my commitment to do everything possible to move a strong FIRRA reform bill this year, in conjunction with reform of the FFDCA's provisions for pesticide residue tolerances. That bill, of course, falls under the Labor Committee's jurisdiction.

The administration has worked hard to propose a realistic starting point for the process of pesticide law reform. They deserve to be commended for their efforts.

But I am sure that will not stop critics from attacking the bill. Plenty of inside-the-beltway lobbyists, who really just want more delay and denial, are probably on the phones right now. No doubt, they are grossly exaggerating how this bill will affect farmers, consumers, and agribusiness, spouting off vitriolic sound bites for the press, and telling their clients that a quick fix is all that is needed.

They are wrong. The White House has assured me a quick fix will not be accepted. I will not accept one, and I am sure Senator KENNEDY shares my view. I intend to work closely with him to ensure that our committees act in a coordinated fashion that will result in comprehensive reform benefiting consumers and farmers alike.

While we work on legislation, I am also working with USDA and EPA on an administrative solution to the lack of safer pesticide alternatives. Yesterday, I received a firm commitment from the administration on a historic initiative to solve this problem.

Right, now, EPA's regulatory decisions, to cancel a pesticide for example, are not coordinated with USDA's research agenda. I raised this issue several times last year on the Senate floor, before the Food Group, and in a letter to Vice President GORE.

If EPA intends to cancel or otherwise limit use of a pesticide, and there is no effective alternative, then USDA efforts to develop and disseminate a safer pest control method should begin immediately. EPA should be able to identify pesticides of concern well before regulatory action is taken, so that USDA can help farmers find safe and effective alternatives in a timely manner. Without such an early warning system, farmers will continue to be left empty handed or with alternatives that simply raise similar risk concerns.

Farmers need to be able to control pests and weeds. And if they are to meet a new health-based safety standard, we must provide them with safe, effective, and economical pest control methods.

The administration and I agree that we do not need legislation to get started on a solution to this particular problem. My staff has been working with EPA and USDA since February on a draft memorandum of agreement to start getting safer alternatives into farmers' hands. I was assured yesterday that the memorandum will be completed in July.

This agreement represents a leap forward in the way we think about pesticides and pest management. All of the parties now recognize that our regulatory policies are incomplete, and will never be fully successful, until we establish a program to promote effective, economical alternatives to dangerous chemical pesticides.

While the naysayers and fearmongers are building massive war chests to fight reform, while they seek to exploit farmers' understandable concerns, this administration is taking responsible steps toward a constructive solution to the alternatives problem.

When the agreement is complete in July, farmers will finally get the help they deserve to find and use safer pesticide alternatives. Instead of an antiquated system that fosters confrontation and lurches from crisis to crisis, we will finally have a rational policy that rewards innovation and helps farmers find safer alternatives to the most hazardous chemical pesticides, before they are removed from the market.

I look forward to taking the first step to resolve the alternatives problem administratively while we continue to work toward comprehensive pesticide law reform.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2050

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; REFERENCE

(a) SHORT TITLE.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; Table of contents; Reference.
Sec. 2. Registration Renewal ("Sunset").
Sec. 3. Imports and Export.
Sec. 4. Cancellation.
Sec. 5. Coordination with the Federal Food, Drug, and Cosmetic Act (FFDCA).
Sec. 6. Suspension.
Sec. 7. Label Call-In.
Sec. 8. Phase-Out/Phase Down.
Sec. 9. Reduced Risk Pesticides.
(a) Reduced Risk Pesticides.
(b) Exclusive Use.
(c) Definition of Biological Pesticide.
(d) Conditional Registration for Biologicals.
(e) Registration Priorities.
(f) Conforming Amendments to Sections 20 and 23.
(g) Alternative Pest Control Strategies.
Sec. 10. Minor Uses.
Sec. 11. Fees.
Sec. 12. Use-by-Prescription.
Sec. 13. Judicial Review.
Sec. 14. Indemnification.
Sec. 15. Certification and Training.
Sec. 16. Pesticide Recordkeeping.
Sec. 17. Enforcement.
Sec. 18. "Whistle Blower" Provision.

(c) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act.

SEC. 2. REGISTRATION RENEWAL ("SUNSET").

(a) Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136A) is amended by adding at the end the following:

"(g) REGISTRATION RENEWAL.—

"(1) GENERAL RULE.—Under the subsection the registrations of pesticides are to be renewed periodically as set out in paragraph (4). The dates for the renewal of a registration of a pesticide are based on dates applicable to the active ingredient of the pesticide as set out in paragraph (2). The date on or after which an application shall be submitted for the renewal of a registration is the reapplication date of the active ingredient as set out in paragraph (3). The initial and subsequent reapplication date of an active ingredient is set out in paragraph (4). The date of which a renewal application is required to be approved is the expiration date of the active ingredient as set out in paragraph (5a). The expiration date refers to the date a registration will expire if not renewed and such date is 3 years after the reapplication date of the active ingredient. A registration shall not expire under this section except as provided under paragraph (5) of this subsection.

"(2) LIST OF ACTIVE INGREDIENTS.—

"(A) INITIAL LIST.—Not later than 180 days after the date of enactment of the Federal Insecticide, fungicide, and Rodenticide Act Amendments of 1994, the Administrator shall publish in the Federal Register a list of each ingredient contained in any pesticide currently registered on the date of the publication of such list.

"(B) LIST REVISION.—The Administrator shall revise the list to add a new pesticide active ingredient on the date a pesticide is registered under subsection (c) which contains such ingredient. If the expiration date of the active ingredient expires without renewal of the registration of at least one pesticide containing such active ingredient, the Administrator shall remove the active ingredient from the list. The Administrator shall annually publish such list to include each revision made under this subparagraph.

"(C) LIST CONTENT.—The list published by the Administrator under this paragraph shall state the name, reapplication date, and the expiration date of each active ingredient contained in the list.

"(D) PUBLICATION GROUPS.—Active ingredients listed under this paragraph shall be grouped as follows: An active ingredient shall be classified—

"(i) in group 1 if the active ingredient was first contained in a pesticide initially registered after November 1, 1984,

"(ii) in group 1 if the active ingredient was first contained in a pesticide initially registered after October 31, 1984, but before the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994, or

"(iii) in group 3 if the active ingredient was first contained in a pesticide initially registered after such date of enactment.

"(3) REAPPLICATION DATE.—The initial reapplication date of an active ingredient—

"(A) in group 1, shall be a date established by the Administrator 12–14 years after the issuance of a reregistration eligibility decision document for the active ingredient under section 4(g)(2),

"(B) in group 2, shall be a date established by the Administrator 10–13 years after the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994, and

"(C) in group 3 shall be 12 years after the date of initial registration of a product containing the active ingredient.

"Subsequent reapplication dates for each active ingredient shall be 12 years after the preceding expiration date of such active ingredient.

"(4) RENEWAL.—

"(A) PROCEDURE FOR RENEWAL.—All registrants shall comply with guidelines published by the Administrator specifying the information required for renewal of registration that are in effect 4 years prior to the reapplication date for each active ingredient in the registrant's product. Such guidelines shall provide registrants with information sufficient to determine each scientific study that must be submitted for renewal of registration.

"(B) DATA SUBMISSION, COMPENSATION, AND EXEMPTION.—For purposes of this subsection, the provisions of subsection (c)(1) and (c)(2)(D) shall be applicable to the requirements for renewal of a registration of a pesticide.

"(C) STANDARD.—The Administrator shall renew the registration of a pesticide if the Administrator determines that (i) the registrant has submitted an application for renewal of registration no later than the date set forth in paragraph (3) of this subsection; (ii) the registrant has submitted all required information as specified by the guidelines published pursuant to subparagraph (A) and any written communications from the Administrator to the registrant regarding the application of such guidelines; and (iii) the active ingredient meets the requirements of subsection (c)(5) of this section.

"(D) NOTIFICATION.—The Administrator shall endeavor to review applications as expeditiously as practicable, and shall notify the registrant promptly of any deficiencies in the application for renewal of registration.

"(E) EFFECTIVE DATE OF RENEWAL.—The renewal of the registration of a pesticide under this paragraph shall take effect on the day after the expiration date of the previous registration of the pesticide.

"(F) EXTENSION.—If the registrant of a pesticide submits a complete application for the renewal of the registration of a pesticide in accordance with subparagraph (A) and the Administrator does not take final action on such application before the expiration date of such registration, the Administrator shall extend the pesticide's registration for one additional year.

"(5) EXPIRATION.—

"(A) INCOMPLETE APPLICATION.—If the registrant of a pesticide does not submit a complete application to the Administrator, including all required information as specified by the guidelines published pursuant to paragraph (4)(A), on or before the reapplication date of the active ingredient for which registration renewal is required and the Administrator has not after such date renewed the registration, the Administrator shall notify the registrant at least 30 days prior to the expiration date of the registration that the registration shall expire upon the expiration date unless the registrant has requested a hearing before such time. No reapplication shall be deemed incomplete if it complies with the guidelines under paragraph (4). If a hearing is requested, the only matter for resolution at that hearing shall be whether the registrant failed to submit a complete application on or before the reapplication date of the active ingredient. If a hearing is held, a decision after completion of such hearing shall be final. If, after a hearing, the Administrator issues a determination that the application is incomplete, the registration shall expire. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within 75 days after receipt of a request for such hearing. If a registrant fails to submit a request for a hearing under this subsection, the registration shall expire automatically upon the expiration date and the expiration of the registration shall not be reviewable in any court.

"(B) INSUFFICIENT INFORMATION.—Notwithstanding any other provision of this section, if the Administrator determines that the information submitted for an active ingredient for which registration renewal is required is insufficient to permit the Administrator to evaluate the active ingredient under the requirements of section 3(c)(5), the Administrator shall notify each registrant to which the determination applies at least 30 days prior to the expiration date for such registrations that each registration shall expire upon the expiration date unless the registrant has requested a hearing before such time. If a hearing is requested, the only matter for resolution at that hearing shall be whether the Administrator's determination was reasonable that the information submitted is insufficient to evaluate the active ingredient under section 3(c)(5). If a hearing is held, a decision after completion of such hearing shall be final. If after a hearing, the Administrator issues a determination that the information submitted is insufficient to permit the Administrator to evaluate the active ingredient under the requirements of section 3(c)(5), the registration shall expire. Notwithstanding any other provision of this Act, a hearing shall be held and a determination made within 75 days after receipt of a request for such hearing. If a registrant fails to submit a request for a hearing under this subsection, the registration shall expire automatically upon the expiration date and the expiration of the registration shall not be reviewable in any court.

"(6) CANCELLATION.—If the Administrator determines on the basis of a registrant's application or any other information that one or more uses of an active ingredient for which registration renewal is required does not meet the requirements of section 3(c)(5) of this Act, the Administrator shall initiate a proceeding to cancel all registrations containing such active ingredient to which the determination applies under section 6(b) of this Act. Registrations subject to cancellation proceedings shall neither expire nor be renewed pending the completion of cancellation proceedings. If, after completion of cancellation proceedings under section 6(b), the Administrator determines not to cancel a registration, the Administrator shall renew such registration.

"(7) FEES.—

"(A) The Administrator is authorized to issue regulations to assess fees from registrants reasonably calculated to cover costs associated with the review of registrations pursuant to this subsection.

"(B) If any fee prescribed by regulations issued pursuant to this paragraph with respect to the registration of a pesticide is not paid by the time prescribed by such regulations, the Administrator, by order and without hearing, may cancel the registration.

"(8) REGISTRATION RENEWAL FUND.—

"(A) ESTABLISHMENT.—There shall be established in the Treasury of the United States a registration renewal fund.

"(B) SOURCE AND USE.—All fees collected by the Administrator under paragraph (6) shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out the provisions of subsection (g) of this Act.

"(9) EXISTING STOCKS.—Whenever a pesticide registration expires pursuant to this subsection, the Administrator may issue an order allowing continued distribution, sale or use of existing stock of the expired pesticide subject to such conditions and limitations as the Administrator may specify, provided such distribution, sale or use is consistent with the provisions of the Act.".

SEC. 3. IMPORTS AND EXPORTS.

(A) EXPORTS.—

(1) Section 17 (7 U.S.C. 136o) is amended to read as follows:

"(a) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a registration or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit, not later than 180 days after the effective date of the action, notification of the action to the governments of other countries and to appropriate international agencies. The notification shall include information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 and other alternatives including Integrated Pest Management, that could be used in lieu of the pesticide.

"(b) CERTAIN PESTICIDES PROHIBITED FROM EXPORT.—

"(1) PESTICIDES CONTAINING ACTIVE INGREDIENTS BANNED BECAUSE OF ADVERSE EFFECTS ON HUMAN HEALTH OR THE ENVIRONMENT.—

"(A) Except as provided in subparagraph (B) or (C), no person may export to a foreign country a pesticide that contains an active ingredient if all or virtually all use of the active ingredient in the United States has been prohibited. An active ingredient is subject to the preceding sentence if any of the following has occurred:

"(i) Registration of pesticides containing the active ingredient have been suspended or canceled by the Administrator.

"(ii) Applications for registration of pesticides containing the active ingredient have been denied by the Administrator;

"(iii) Applications for registration of pesticides containing the active ingredient have been withdrawn by the registrant voluntarily;

"(iv) Registrations of the pesticide have been canceled by the registrant voluntarily; or,

"(v) Tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the active ingredient have been revoked; and, as a result, all or

virutally all volume of the active ingredient may not be used lawfully in the United States.

"(B) The Administrator shall permit the export of a pesticide subject to the prohibitions of paragraph (A) solely because of actions described in subparagraph A (iii) or A (iv), if the Administrator publishes after notice and opportunity for public comment a determination that the Administrator is unaware of any information indicating use of the pesticide could pose a risk of significant adverse effects on public health or the environment.

"(C) The Administrator shall permit the export of a pesticide to a specific importing country if—

"(i) the Administrator finds, after notice and opportunity for comment, that the pesticide is not subject to a prohibition of subparagraph (A) for any reason related to an adverse human health effect; and

"(ii) the importing country has informed the Administrator in writing that the country wishes to import the pesticide and affirms that the country is aware that all or virtually all uses of the pesticide are prohibited in the United States.

"A finding under this subparagraph shall be effective for 1 year, except that the Administrator may renew the finding if the importing country informs the Administrator annually in writing that it wishes to continue to import the pesticide.

"(D) The Administrator shall, after opportunity for comment, establish and keep current a list of pesticide active ingredients which the Administrator determines are described in paragraph (1)(A). The Administrator shall publish such list in the Federal Register initially within six months of the date of enactment of this paragraph and shall publish any additions to or deletions from the list promptly upon the Administrator's determination that the list should be amended.

"(E) The omission of any active ingredient from the list published pursuant to subparagraph (D) that is subject to the restrictions of paragraph (1)(A) shall not limit the authority of the Administrator to initiate enforcement action under this Act with regard to a pesticide containing such active ingredient exported in violation of paragraph (1)(A).

"(2) PESTICIDES SUBJECT TO OBJECTIONS FROM IMPORTING COUNTRIES.—

"(A) The Administrator shall, by order, prohibit persons from exporting a pesticide to a foreign country that has informed in writing the Administrator, or an international agency of which the United States is a member, that the country does not wish to import the pesticide and the foreign country certifies that it—

"(i) is not producing and will not produce the pesticide for use in the country;

"(ii) is not importing and will not import the pesticide from any other country; and

"(iii) does not wish to import the pesticide because of concerns of the country about adverse effects on human health or the environment.

"(B) The Administrator shall issue an order under subparagraph (A) not later than 30 days after receipt of the certification.

"(C) If the Administrator determines, after notice and opportunity for comment, that a foreign country is not in compliance with a certification provided under subparagraph (A), the Administrator shall promptly withdraw the order issued under subparagraph (A). The withdrawal shall become effective on publication in the Federal Register.

"(3) REQUIREMENT FOR A METHOD OF RESIDUE DETECTION IN FOOD.—

"No person may export a pesticide unless—

"(A) There is a tolerance or an exemption from the requirement of tolerance under paragraph (3) or (4) of section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)) governing residues of each ingredient in the pesticide in at least one food;

"(B) There is a practical method for detecting residues of each ingredient in the pesticide in or on foods and the Administrator has an appropriately certified pesticide reference standard; or

"(C) the Administrator determines that the pesticide is not likely to be used in a manner resulting in pesticide residues in or on imported foods.

"(4) PESTICIDES THAT HAVE NEVER BEEN REGISTERED UNDER SECTION 3.—

"(A) No person may export a pesticide to a foreign country if any ingredient of the pesticide has not been and is not the subject of any registration under section 3, unless the Administrator determines that—

"(i)(I) for each active ingredient, there is a tolerance greater than zero or an exemption from the requirement for a tolerance under paragraph (3) or (4) of section 408(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)); or

"(II) residues of the pesticide on food have been permitted or the pesticide has been approved for use in at least 3 countries that evaluate pesticides prior to marketing in accordance with internationally recognized scientific standards and on the basis of a competent, independent, scientific review of public health and environmental risks; and (ii) the country of import participates in the United Nations Environment Program-Food and Agriculture Organization system for exchange of information on pesticides in international trade, or has equivalent provisions in place.

"(B) Any person may petition the Administrator to withdraw the determination under subparagraph (A) that a pesticide may be exported.

"(5) RESTRICTIONS ON THE EXPORT OF SMALL QUANTITIES OF PESTICIDES FOR RESEARCH AND DEVELOPMENT.—Notwithstanding paragraphs (1) and (4), the Administrator may permit the export of a small quantity of a pesticide to a foreign country solely for purposes of research and development, but not test marketing. The Administrator, however, shall not permit the export of such a pesticide if it contains any active ingredient which has been prohibited for all or virtually all uses and for which the Administrator has not made the determination in (1)(B). Export of a pesticide under this subparagraph shall be subject to such quantity limitations, notification, reporting and labeling requirements as are necessary to determine the nature and extent of such research and development activities and to ensure that the pesticide will be used solely for research and development in the country.

"(c) REQUIREMENT FOR FOREIGN PURCHASER ACKNOWLEDGEMENT STATEMENT.—In the case of an unregistered pesticide other than a pesticide covered by paragraph (1) of subsection (b), the exporter shall obtain from the foreign purchaser a signed statement acknowledging that the purchaser understands that the pesticide is not registered for use in the United States and cannot be sold in the United States under this Act. A copy of the statement shall be transmitted to the Administrator and to an appropriate official of the importing country.

"(d) INFORMATION ON ALTERNATIVES.—The Administrator shall develop and update annually a circular describing environmentally preferable alternatives and pest management techniques to exported pesticides that are not registered under section 3 or registered pesticides that are exported pursuant to paragraph (1)(C) of subsection (b) of this section. The Administrator shall transmit the circular and the annual update of the circular to the governments of other countries and to appropriate international organizations.

"(e) PESTICIDES OR DEVICES INTENDED FOR EXPORT.—No pesticide or device may be exported to a foreign country unless—

"(1) the pesticide or device complies with this section and sections 2(p), 2(q), 7, 8, 19(a), and 19(e); and

"(2) the label of the pesticide—

"(A) is written in an official language of the country of use; and

"(B) to the extent not in conflict with requirements of the country of use, contains all health, safety, environmental, and other related information required to be included under section 3 on the labeling for the pesticide for use in the United States, if the product is registered under Section 3 of this Act.

"(f) PRODUCT STEWARDSHIP.—

"(1) REGULATIONS.—To promote proper product stewardship, the Administrator shall, by regulation, require a person who exports a pesticide from the United States to comply with the product stewardship provisions of the 1993 International Code of Conduct on the Distribution and Use of Pesticides of the Food and Agricultural Organization of the United Nations. The Administrator may amend such regulations to require persons who export pesticides to comply with any amendments to such code as the Administrator deems necessary.

"(2) NONCOMPLIANCE.—If the Administrator determines after providing notice and opportunity for informal hearing that an exporter of pesticides has demonstrated a pattern of noncompliance with a regulation issued under paragraph (1), the Administrator—

"(A) shall publish in the Federal Register the finding of the Administrator with respect to the noncompliance; and

"(B) may prohibit the exporter from exporting pesticides for a period of not more than 180 days unless the noncompliance has not been corrected by the end of the period.

"(g) CONFIDENTIALITY OF EXPORT INFORMATION.—

"(1) Notwithstanding sections 7(d) and 10(b), the Administrator shall make available to the public on request without restriction the following information in the possession of the Administrator concerning exports of pesticides:

"(A) The identity of the producer and exporter of an exported pesticide.

"(B) The active ingredients in an exported pesticide.

"(C) The name of an exported pesticide.

"(D) The date of export.

"(E) The countries to which a pesticide is exported, including the countries of final destination.

"(2) The Administrator shall make available to the public upon request information specified by paragraph (1) concerning the export of a pesticide solely in small quantities for purposes of research and development only to the estent that such information would be subject to disclosure if it concerned a pesticide used for similar research and development purposes in the United States, provided the exporter, in accordance with rules issued by the Administrator, certifies to the Administrator, in writing, that the pesticide is being exported solely in small

quantities for purposes of research and development.

"(h) RECORDS.—Any person who distributes or sells a pesticide for export shall submit to the Administrator records of the distribution or sale under such conditions as the Administrator may prescribe by regulation. No regulation issued pursuant to this subsection shall require any person to duplicate reporting of any information otherwise required to be reported by the person under section 7.

"(i) ANNUAL EXPORTS REPORT.—The Administrator shall prepare and make available to the public an annual report beginning with the first full calendar year following the year of enactment of this subsection. The report shall include a description of the identities, aggregate quantities, and destinations of pesticides exported to foreign countries during each calendar year, to the extent the Administrator determines that disclosure of the information is consistent with the requirements of section 10.

"(j) FEES.—

"(1) AUTHORITY.—The Administrator may issue regulations to assess fees on pesticide registrants that are reasonably calculated to cover costs associated with carrying out this section.

"(2) ESTABLISHMENT OF FUND.—There shall be established in the Treasury of the United States a fund to carry out this section.

"(3) SOURCE AND USE. All fees collected by the Administrator under paragraph (1) shall be deposited into the fund, and thereafter, shall be available until extended, subject to appropriation, to carry out this section.

"(k) TECHNICAL ASSISTANCE PROGRAMS.—

"(1) IN GENERAL.—The Administrator is authorized to use each fiscal year not more than $4,000,000 to provide countries technical assistance in—

"(A) safe handling and use of pesticides;

"(B) alternative methods of pest control;

"(C) strengthening of pesticide regulatory institutions;

"(D) provision of technical information;

"(E) support for pesticide management and safety training programs; and

"(F) coordination with assistance efforts conducted by other donor or international organizations.

"(2) PRIORITY.—Priority for assistance under this subsection shall be given to developing countries that are major sources of food imported into the United States.

"(3) COORDINATION WITH THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—To ensure full consistency with ongoing U.S. AID technical assistance programs in those areas, all EPA activities conducted under this section in countries that receive U.S. AID assistance shall be undertaken in close cooperation with the Administrator of U.S. AID.

"(l) IMPORTATION OF PESTICIDES AND DEVICES.—

(1) IN GENERAL.—The Secretary of the Treasury shall—

"(A) Notify the Administrator of the arrival of pesticides and devices;

"(B) deliver to the Administrator, on the request of the Administrator, samples of pesticides or devices that are being imported into the United States; and

"(C) give notice to the owner or consignee of the pesticide or device.

"(2) OPPORTUNITY TO BE HEARD.—The owner or consignee may appear before the Administrator and introduce testimony.

"(3) VIOLATIONS.—If it appears from the examination of a sample that the sample is adulterated, misbranded, otherwise violates this Act, or is otherwise injurious to health or the environment—

"(A) the pesticide or device may be refused admission; and

"(B) the Secretary of the Treasury may—

"(i) refuse delivery to the consignee; and

"(ii) cause the destruction of any pesticide or device refused delivery.

"(4) NONEXPORT.—A pesticide or device that is refused admission shall not be exported unless the export conforms to the requirements of subsection (c) and such regulations as the Secretary of the Treasury may prescribe, except in accordance with this section.

"(5) BOND.—The Secretary of the Treasury may deliver to the consignee the pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of the pesticide or device, together with the duty on the pesticide or device. If the consignee refuses to return the pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding the pesticide or device from the United States, or for any other purpose, the consignee shall forfeit the full amount of the bond.

"(6) CHARGES.—All charges for storage, cartage, and labor on pesticides or devices that are refused admission or delivery shall be paid by the owner or consignee. Any default of the payment shall consititue a lien against any future importation made by the owner or consignee.

"(7) REGULATIONS.—The Secretary of the Treasury, in conjunction with the Administrator, shall prescribe regulations for the administration and enforcement of this subsection.

"(m) COOPERATION IN INTERNATIONAL EFFORTS.—

"(1) PRESIDENT.—The President is encouraged to pursue appropriate international agreements or arrangements to address notification programs and trade in pesticides consistent with this Act.

"(2) ADMINISTRATOR.—The Administrator is encouraged to, in cooperation with the Secretary of State, the Administrator of the Agency for International Development and the head of any other appropriate Federal Agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.".

(b) CONFORMING AMENDMENTS.—

(1) REGISTRATION OF ESTABLISHMENTS.—Section 7(c) (7 U.S.C. 136e (c)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—

"(A) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of the types and quantities of pesticides and active ingredients used in producing pesticides that the producer—

"(i) is currently producing;

"(ii) has produced during the past 365-day period; and

"(iii) has sold or distributed during the past 365-day period.

"(b) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of—

"(i) the types and quantities of pesticides, and active ingredients used in producing pesticides, that are produced for export to a foreign county; and

"(ii) the date of export and quantity of pesticides and active ingredients exported to each foreign county to which the producer has exported during the past 365-day period.

"(C) The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.".

(B) in subparagraph (2) by striking "(2)", and inserting "(2) STOP SALE ORDERS.".

(2) UNLAWFUL ACTS.—Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended—

(A) by striking "or" at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting "; or"; and

(C) by adding at the end the following:

"(T) to export any pesticide in violation of section 17 or to violate any regulation or order issued under section 17.".

(3) ADVERSE EFFECTS INFORMATION.—Section 6(a) (7 U.S.C. 136c(a)) is amended by adding at the end the following: "EFFECTIVE DATE.—

"(A) The prohibitions in Section 17(b) shall become effective 30 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1994.

"(3) Any person, who exports a pesticide or who produces a pesticide for export, shall submit to the Administrator:

"(A) any factual information regarding unreasonable adverse effects on the environment of the pesticide; and

"(B) any information regarding the regulatory status of such pesticide in other countries that would affect whether the pesticide may be exported.".

SEC. 4. CANCELLATION.

(a) Section 3(c)(6) (7 U.S.C. 136a(c)(6)) is amended to read as follows:

"(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, the Administrator may issue a notice proposing denial of registration. Such a notice shall include the legal and factual bases for the denial. The Administrator shall send a notice proposing denial to the applicant for registration and shall promptly publish the notice in the Federal Register. Subsequent action on the proposed denial shall be in accord with the applicable provisions of section 6(b).".

(b) Section 3(d)(2) (7 U.S.C. 136a (d)(2)) is amended to read as follows:

"(2) CHANGE IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary because, without such restriction, the use may cause unreasonable adverse effects on the environment, he shall follow the applicable provisions of section 6(b).".

(c) Section 6(b) (7 U.S.C. 136d (b)) is amended to read as follows:

"(b) CANCELLATION, DENIAL OF REGISTRATION, CHANGE IN CLASSIFICATION.—

"(1) STANDARD FOR CANCELLATION.—The Administrator may cancel, deny application for registration of, or change the classification of a pesticide if the Administrator determines that:

"(A) the pesticide generally causes unreasonable adverse effects on the environment when used in accordance with widespread and commonly recognized practice; or

"(B) the pesticide product or its labeling or other material required to be submitted by the Act do not comply with the requirements of the Act.

"The proponents of registration of a pesticide shall at all times have the burden of showing that the standard for cancellation, denial or change in classification is not met.

"(2) CONSULTATION WITH FEDERAL AGENCIES.—If the Administrator intends to cancel

or change the classification of a pesticide registered for agricultural uses, the Administrator shall consult with the Secretary of Agriculture regarding the proposed action and provide an opportunity to submit written comments. If the Administrator intends to cancel or change the classification of a pesticide registered for public health uses, the Administrator shall consult with the Secretary of Health and Human Services regarding the proposed action and provide an opportunity to submit written comments.

"(3) PROPOSED ORDER.—If the Administrator determines that the standard for canceling, denying application for registration of, or changing the classification of a pesticide may be met, the Administrator may issue a proposed order to cancel, deny or change the classification of a pesticide. In issuing any proposed order under this paragraph, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation. The Administrator shall send a copy of the proposed order to each registrant holding a registration addressed by the proposed order and shall publish the proposed order in the Federal Register. The proposed order shall include (or incorporate by reference to publicly available documents) the following:

"(A) a statement of the factual and legal bases for the proposed action;

"(B) if the pesticide is used to produce an agricultural commodity, a general analysis of the impact of the proposed action on consumers, retail food prices, production of agricultural commodities, and otherwise on the agricultural economy;

"(C) a copy of any written comments on the proposed action submitted by the Secretary of Agriculture, the Secretary of Health and Human Services, or the Scientific Advisory Panel;

"(D) the changes, if any, in the terms and conditions or registration that a registrant would need to make in order for the Administrator to conclude that cancellation or change in classification would not be appropriate; and

"(E) notice of the availability of an informal public hearing.

"(4) PROCEDURES FOR PROPOSED CANCELLATION ORDERS, DENIALS OF APPLICATIONS FOR REGISTRATION, OR CHANGES IN CLASSIFICATION.—

"(A) The registrant or applicant for registration, and any other interested person, shall be afforded an opportunity to comment on a proposed cancellation order, denial of application for registration, or change in classification, for at least ninety days after publication of the proposal in the Federal Register.

"(B) The registrant or applicant for registration, and any other interested person, may request that the Administrator hold an informal public hearing during the comment period. Requests for hearing must be filed within twenty-one days of publication of a proposed cancellation order, denial of application, or change in classification in the Federal Register. The Administrator may deny such request if holding a hearing would not be in the public interest.

"(C) No final order to cancel, change classification, or deny application may be issued under paragraph (6) of this section before the appropriate comment period has expired.

"(D) If a final order to cancel or change classification differs significantly from a proposed order, the Administrator shall, prior to issuing the final order, consult with the Secretary of Agriculture and the Secretary of Health and Human Services under the conditions set forth in paragraph (b)(2) of this section.

"(5) INFORMAL PUBLIC HEARING.—

"(A) If a timely request for an informal public hearing is made on a proposed cancellation, change in classification, or denial of application, and the Administrator determines that a hearing shall be held, the Administrator shall publish in the Federal Register a notice of hearing, and shall send a copy of such notice to any person who requested such a hearing. Such notice shall identify a time and location for the hearing, and shall specify such procedures for the hearing as the Administrator may determine appropriate. Any interested person shall be given an opportunity to appear at the hearing, either in person or through an authorized counsel or representative, and to be heard with respect to the proposed order. The Administrator shall appoint a hearing officer to preside over the hearing. The hearing officer shall cause a verbatim transcript of the hearing to be kept. Such transcript, and any written material submitted at a hearing in accordance with any requirements set forth in the notice of hearing, shall be a part of the record of the proceeding.

"(B) If the Administrator denies a timely request for hearing, the Administrator shall publish in the Federal Register a notice of denial and the reasons therefor, and shall send a copy of such notice to any person who requested such hearing.

"(6) FINAL ORDERS.—

"(A) If no comments opposing the proposed action are submitted by registrants or other interested persons during the comment period provided pursuant to paragraph (4) or at any hearing held pursuant to paragraph (5), and if, in the case of a proceeding to cancel or change the classification of a pesticide, a registrant does not file a timely application for amendment of registration to implement the changes, if any, specified in the proposed order pursuant to subparagraph (b)(3)(iv) of this section, the Administrator may issue a summary final order canceling registration, denying application for registration, or changing classification. Such final order shall be published in the Federal Register and sent to each registrant of, and applicant for, a registration addressed by the final order. Such final order shall not be subject to judicial review.

"(B) If, after reviewing comments submitted pursuant to paragraph (4), and the record compiled at any informal hearing held pursuant to paragraph (5), the Administrator determines that the standard for cancellation of registration, denial of application for registration, or change in classification is met, the Administrator shall publish a final order of cancellation, denial of application, or change in classification in the Federal Register and shall send a copy of such order to each applicant for, or registrant holding, a registration addressed by the final order. The final order shall include (or incorporate by reference to publicly available documents) the following:

"(i) the factual and legal bases for the final order;

"(ii) a summary of the significant comments submitted either in writing or orally at a hearing by the public and, in the case of a proposed cancellation order, by the Secretary or Agriculture, the Secretary of Health and Human Services, the Scientific Advisory Panel, and the Administrator's responses to those comments;

"(iii) in the case of a proceeding for the cancellation or change in classification of a pesticide used in the production of an agricultural commodity, a general analysis of the impact of the action on consumers, retail food prices, production of agricultural commodities, and otherwise on the agricultural economy; and

"(iv) in the case of a final order canceling or changing the classification of a pesticide, a description of the changes, if any, in the terms and conditions of registration of a pesticide product that a registrant would need to make in order for the final order not to apply to the product.

"Final orders issued pursuant to this subparagraph will be effective upon publication in the Federal Register, except that in the case of a final order where the Administrator has established terms and conditions as an alternative to cancellation or change in classification pursuant to subclause (iv), the order shall not be effective until thirty days after publication in the FEDERAL REGISTER, and a product will not be canceled nor its classification changed pursuant to the order if a registrant, within such thirty day time period, has applied to amend its registration to comply with the specified terms and conditions.

"(C) If, after reviewing the comments submitted pursuant to paragraph (4), and the record compiled at any informal hearing held pursuant to paragraph (5), the Administrator determines not to cancel, deny applications, or change classification, the Administrator shall publish in the FEDERAL REGISTER a final decision to that effect and shall send a copy of such decision to each registrant of, and applicant for, a registration addressed by the proposed order. Such decision shall include the information described by clauses (i)-(iii) of subparagraph (B) of this paragraph. Such a decision shall be effective upon publication.

"(7) PETITIONS TO SUSPEND, CANCEL, DENY APPLICATION OR CHANGE CLASSIFICATION.—

"(A) Any person may, at any time, petition the Administrator to suspend or cancel a registration pursuant to this section or to deny an application for registration or change the classification of a pesticide pursuant to section 3 of this Act. Such a petition must include the factual and legal bases supporting the petition.

"(B) If the Administrator determines that the requested action is necessary to serve the purposes of the Act, the Administrator shall suspend the pesticide or issue a proposed order to cancel, deny application, or change classification, and the appropriate provisions of sections 3 or 6 shall apply.

"(C) If the Administrator denies the petition, the Administrator shall issue an order specifying the basis for such denial.

"(8) EFFECT OF FINAL ORDER OF CANCELLATION, DENIAL OF APPLICATION, OR CHANGE IN CLASSIFICATION.—

"(A) The Administrator may issue an order summarily denying any application for registration or amendment under section 3 or 24 of this Act, or application for exemption pursuant to section 18 of this Act, with respect to a pesticide that has been subject to a final order issued pursuant to this section canceling registration, denying application for registration, or changing classification, unless the applicant has presented substantial new information which:

"(i) may materially affect the basis for or content of the prior order;

"(ii) was not available to the Administrator at the time he issued the final order; and

"(iii) could not, through the exercise of due diligence, have been available to the applicant prior to the issuance of the final order.

"If the Administrator determines that the applicant has not provided substantial new information complying with the requirements set forth in this subparagraph, the Administrator may issue an order summarily denying the application and shall send a copy of such order to the applicant.

"(B) If, after review of an application (and supporting data submitted by the applicant) for a registration or amendment pursuant to section 3 or 24 of this Act, the Administrator determines that the applicant has submitted substantial new information and that reconsideration of the prior final order may be warranted, the Administrator shall publish a notice in the Federal Register announcing that the Administrator is reconsidering the prior final order. Such notice shall describe the nature of the application, contain the factual and legal bases for the Administrator's determination that reconsideration may be warranted, and shall provide an opportunity of at least 60 days for interested persons to comment on the issues of whether reconsideration should be granted and whether the application should be granted.

"(C) After the opportunity for comment on a notice issued pursuant to section 6(b)(8)(B) has expired, the Administrator shall publish a final decision in the Federal Register either denying the application or granting reconsideration of the prior final order to the extent necessary to consider the application. A final decision granting reconsideration may, at the Administrator's discretion, contain a final determination granting or rejecting the application. If such a final determination is not contained in a final decision granting reconsideration, the application shall be reviewed according to the provisions of section 3 or 24 as appropriate.

"(D)(i) If the Administrator grants reconsideration, but denies the application, the Administrator shall publish in the Federal Register a notice proposing denial of registration pursuant to section 3(c)(6) of this Act. Such a notice may be contained in a final decision granting reconsideration issued pursuant to section 6(b)(8)(B). Subsequent action on the proposed denial shall be in accord with the applicable provisions of section 6(b).

"(ii) If the Administrator determines, after granting reconsideration, that the application should be granted, he shall publish in the Federal Register a notice granting the application. Such a notice may be contained in a final decision granting reconsideration issued pursuant to section 6(b)(8)(B).

"(9) EXISTING STOCKS.—The Administrator may permit the continued sale and use of existing stocks of a pesticide whose registration is canceled under this Act to such extent, under such conditions, and for such uses as the Administrator may specify if such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment.".

(d) CONFORMING AMENDMENT.—

Section 25(d) (7 U.S.C. 136w(d)) is amended to read as follows:

"(d) SCIENTIFIC ADVISORY PANEL.—Prior to issuance of a proposed order under section 6(b), the Administrator shall notify an advisory panel of such action and shall provide such panel an opportunity to submit written comments as to the impact on health and the environment of such proposed orders. The Administrator shall submit proposed and final form regulations issued under section 25(a) within the same time periods as provided for the comments of the Secretary of Agriculture. The time requirements for proposed and final form regulations may not be modified or waived unless in addition to meeting the requirements of section 25(a), the advisory panel has failed to comment on the proposed action within the prescribed time period or has agreed to the modification or waiver.".

SEC. 5. COORDINATION WITH THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 6 (7 U.S.C. 136d) is amended by adding at the end the following:

"(i) COORDINATION WITH THE FOOD, DRUG, AND COSMETIC ACT.—

"(1) The Administrator shall, by order and without a hearing, cancel a pesticide registration, or deny the application for registration or amended registration of a pesticide if the Administrator has revoked a tolerance regulation or denied a petition to establish a tolerance regulation under section 408 of title 21 of the United States Code for residues of the pesticide in or on food that could result from the use of the pesticide, unless the Administrator determines that such use is unlikely to result in food that is adulterated within the meaning of section 342(a)(2)(B) of title 21 of the United States Code.

(2) Except where such order eliminates all uses of a pesticide, any order issued pursuant to paragraph (1) shall not be effective until thirty days after publication in the Federal Register, and an application or registration shall not be denied or canceled pursuant to the order if the applicant or registrant, within such thirty days, has applied to amend the registration or application to delete the uses that form the basis of the cancellation or denial under paragraph (1).".

SEC. 6. SUSPENSION.

(a) Section 6(c) (7 U.S.C. 136d(c)) is amended to read as follows:

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that use of a pesticide results in an imminent hazard, he may issue an order immediately suspending the registration of such pesticide. The order shall specify the bases for the Administrator's determination that an imminent hazard exists. The Administrator shall send to the registrant by certified mail a copy of the suspension order, and shall publish the order in the Federal Register. The order shall become effective with respect to the registrant, upon publication in the Federal Register or upon receipt by the registrant of the order, whichever occurs first. The order shall become effective with regard to persons other than the registrant, upon publication of the order in the Federal Register. The suspension shall automatically expire one hundred and eighty days after becoming effective unless, on or before such expiration date, the Administrator has published in the Federal Register a proposed cancellation order that would cancel the registration of the pesticide use suspended by the order issued under this subparagraph. If a proposed cancellation order is issued before the expiration date, the suspension shall continue in effect until terminated in accordance with paragraph (4).

"(2) CONSULTATION WITH FEDERAL AGENCIES.—If the Administrator intends to suspend a pesticide registered for agricultural uses the Administrator shall consult with the Secretary of Agriculture regarding the proposed suspension. If the Administrator intends to suspend a pesticide registered for public health uses, the Administrator shall consult with the Secretary of Health and Human Services regarding the proposed suspension.

"(3) DURATION OF SUSPENSION.—A suspension order issued under this subsection may be terminated by the Administrator at any time. A suspension order issued under this subsection shall automatically terminate upon completion of a proceeding to cancel the registration of the pesticide under subsection (b), or upon cancellation by the Administrator of the suspended registration. If the Administrator's cancellation of the suspended registration in overturned by a reviewing court, the suspension order issued under this subsection shall be reinstated unless otherwise ordered by the reviewing court, if the decision of the court overturning the cancellation allows for further substantive deliberations by the Administrator on the proposed cancellation.

"(4) PETITION TO RECONSIDER SUSPENSION.—(A) A registrant, or any other interested person with the concurrence of the registrant, may, within thirty days of publication of the suspension order in the Federal Register, petition the Administrator to reconsider the issuance of the suspension order. A petitioner must include in the petition specific objections to the suspension order, and must include the specific bases supporting the petitioner's conclusion that the standard for suspension is not met. A petition must be accompanied by any information the petitioner wishes the Administrator to consider in reviewing the petition. The Administrator shall, within one hundred and twenty days of receipt of the last of such petitions, issue an order granting or denying petitions received within thirty days of the publication of a suspension order. Any suspension order issued under this subsection shall expire automatically if the Administrator fails to respond to any petition within the time required. Such an order responding to a petition for reconsideration shall be sent to the petitioner and published in the Federal Register, and shall include the factual and legal bases for the Administrator's determination on the petition.

"(A) A registrant, or any other interested person with the concurrence of the registrant, may file with the Administrator a petition to reconsider the issuance of a suspension order more than thirty days after publication of the suspension order in the Federal Register only if the petition is based upon substantial new information which:

"(i) may materially affect the basis for or content of the suspension order;

"(ii) was not available to the Administrator at the time he issued the suspension order or denied any petition submitted under subparagraph (5)(A) of this paragraph; and

"(iii) could not, through the exercise of due diligence, have been submitted to the Administrator within thirty days of the issuance of a suspension order.

"In addition to demonstrating that the petition is based upon new information which meets the criteria of this subparagraph, a person filing a petition more than thirty days after the publication of a suspension order must include in the petition specific objections to the suspension order and the specific bases supporting the petitioner's conclusion that the standard for suspension is not met. Such a petition must be accompanied by any information the petitioner wishes the Administrator to consider in reviewing the petition. The Administrator shall issue an order granting or denying a petition filed more than thirty days after the publication of a suspension order within one hundred and twenty days of receipt of the petition. Such an order shall be sent to the petitioner and published in the Federal Register, and shall include the factual and legal bases for the Administrator's determination on the petition.".

(b) Section 6(h) (7 U.S.C. 136d(h)) is amended to read as follows:

"(h) UNREVIEWABLE ACTIONS.—Nothing in this section relating to the provision of notification to or consultation with other Federal Agencies or the Scientific Advisory Panel shall be construed as creating any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person. No court of the United States shall have jurisdiction to review any challenge to any action or failure to take action by the Agency pursuant to this section where such challenge is based upon an assertion that the Agency failed to properly notify or consult with any other Federal Agency or the Scientific Advisory Panel.".

SEC. 7. LABEL CALL-IN.

(a) Section 3 (7 136a) is amended by adding at the end the following:

"(h) LABEL CALL-IN.

"(1) AUTHORITY TO REQUIRE CHANGES.—If the Administrator determines that the risks associated with the use of a pesticide can be reduced by a change in the labeling, packaging, or composition of the pesticide, the Administrator may issue a notice requiring that registrants change the labeling, packaging, or composition of the pesticide. Provided, however, that the Administrator may not pursuant to this section require any change in the labeling, packaging or composition of a pesticide if the Administrator determines the change will effectively prohibit or make economically unfeasible substantially all use of the pesticide on one or more use sites. The Administrator shall send any notice issued pursuant to this section to the registrant of every pesticide to which the determination relates. The notice shall include a description of the required changes and the bases for the Administrator's determination that such changes will reduce the risks associated with the use of the pesticide. The notice shall also include such requirements for notifying the Administrator or submitting amendments of registration reflecting the changes as the Administrator deems appropriate.

"(2) REGISTRANT RESPONSE.—Any registrant receiving a notice pursuant to subsection (a) may, within 60 days of receipt of the notice, file written objections to the change. A registrant may object to the change if the registrant believes:

"(A) the change would effectively prohibit or make economically unfeasible substantially all use of the pesticide on one or more use sites;

"(B) the change is not necessary for the particular product or that a better alternative means exists to prevent the unreasonable adverse effects on the environment;

"(C) the costs to society of making the proposed change exceed the benefits of the risk reduction associated with making the proposed change.

"Any objections must include the specific bases for the objections, and may be accompanied by any written information the registrant desires to submit in support of the objections. If a registrant fails to file timely objections to a notice the requirements contained in the notice shall become final and shall not be reviewable in any court.

"(3) RESPONSE TO OBJECTIONS.—The Administrator shall respond to any objections within 90 days of receipt of the objections by either withdrawing, modifying, or affirming the requirements contained in the notice issued pursuant to subsection (a). Such written response shall be sent to the registrant and shall include the bases therefor. The response shall also include such requirements for notifying the Administrator or submitting amendments of registration reflecting the changes as the Administrator deems appropriate.

"(4) ANNUAL COMPLIANCE DATE.—An annual compliance date is hereby established to be on the first day of October. The Administrator may establish a different compliance date for registrants if it would be in the public interest.

"(5) TIME TO MAKE CHANGE.—Except as provided in paragraph (g), a registrant may not distribute or sell a product on or after the first compliance date occurring more than one year after issuance of a notice pursuant to subsection (a) of this section unless the labeling, packaging, or composition of such product complies with any requirements contained in the notice or, if the notice is challenged, in the response to objections issued pursuant to subsection (c). Provided, however, that of timely objections are filed and the Administrator does not respond to such objections within 90 days, a registrant may not distribute or sell a product on or after the first compliance date occurring more than 7 months after the Agency responds to the objections, or more than one year from the issuance of the notice under subsection (a), whichever is later.

"(6) EXCEPTION.—Notwithstanding any other provision of this subsection, if the Administrator determines that an earlier effective date for a change in product labeling, packaging, or composition is in the public interest, the Administrator may require such changes within reasonable timeframes.

"(7) SUSPENSION.—If a registrant fails to comply with a notice issued under subsection (a) or a written response modifying a notice under subsection (c), the Administrator may issue an order without hearing suspending the registration. Such suspension shall remain in effect until the registrant has complied with the terms of the notice or the response modifying the notice.

"(8) PESTICIDES IN THE CHANNELS OF TRADE.—

"(A) Except as provided in paragraph (2), persons other than the registrant, of a pesticde product that does not comply with a notice issued under subsection (a) and any written response to objections under subsection (c), may continue to distribute or sell such pesticide product for two years after the registrant is prohibited from selling such product under subsection (f).

"(B) The Administrator may specify a shorter period for the distribution or sale of non-conforming pesticide products than is provided in paragraph (1) of this subsection if the Administrator determines that a shorter period is in the public interest. The Administrator shall publish promptly such determination in the Federal Register.

"(9) RECALL.—The Administrator may, by order, require the recall of any pesticide distributed or sold in violation of any requirement issued by the Administrator pursuant to this section. An order issued under this subsection may apply to any person who distributes or sells any pesticide in violation of such a requirement and may require such person to—

"(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall order applies, and inform the Administrator of the location of each such facility;

"(B) accept and store at such facility any pesticide distributed or sold by such person in violation of this section that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such order;

"(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility;

"(D) take such reasonable steps as the Administrator may prescribe to inform persons who may be holders of the pesticide of the terms of the recall order and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility; and

"(E) reimburse any person to whom such pesticide was sold for any unused quantities of such pesticide, unless the purchaser had knowledge at the time of sale that such sale was in violation of any requirement issued by the Administrator pursuant to this section.

"(10) USE SITE.—For purposes of this section, a use site means, for any agricultural use of a pesticide, a particular crop or commodity. The Administrator shall identify, by regulation, non-agricultural use sites.".

"(b) CONFORMING AMENDMENT.—

Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended by adding at the end the following:

"(T) to sell or distribute any pesticide product in violation of any requirement issued by the Administrator pursuant to section 3(g).".

SEC. 8. PHASE-OUT/PHASE-DOWN.

Section 6 (7 U.S.C. 136d) is amended by adding at the end the following:

"(j) REDUCTION, RESTRICTION OF ELIMINATION OF USE OF PRODUCTION OF A PESTICIDE.—

"(1) STANDARD FOR REDUCTION, RESTRICTION, OR ELIMINATION.— If the Administrator determines that—

"(A) credible scientific evidence indicates that use of the pesticide is reasonably likely to pose a significant risk to humans or the environment; and

"(B) additional information should be developed to reduce uncertainties regarding the risk;

"the Administrator shall, pursuant to paragraphs (2)–(4), restrict, reduce, or eliminate the use or production of the pesticide, or evaluate other action as may be necessary to address the risk during the period required for the development, submission and review of such additional information. The Administrator may gather any needed information by use of section 3(c)(2)(B) of this Act.

"(2) CONSULTATION WITH THE SECRETARY OF AGRICULTURE.—Prior to taking action under paragraph (1), The Administrator, in consultation with the Secretary of Agriculture, shall develop a strategy to reduce or limit the risk identified in order to avoid unnecessary dislocation in agricultural production.

"(3) PROPOSED RULE.— If the Administrator determines that the standard for taking regulatory action under paragraph (1) is met, the Administrator may issue a proposed rule to restrict, reduce or eliminate the use or production of a pesticide. The Administrator shall publish the proposed rule in the Federal Register and shall afford the registrant and any other interested person an opportunity to comment on the proposed rule for at least 60 days after publication in the Federal Register. Any person may submit comments concerning the impact of the proposal on the benefits of the use of the pesticide. The proposed rule shall include (or incorporate by reference to publicly available documents) the following:

"(A) The terms and conditions of the proposed rule, including any proposed strategy developed pursuant to paragraph (2) to avoid

unnecessary dislocation in agricultural production;

"(B) a statement of the factual and legal bases for the proposed action; and

"(C) a description of the additional information needed to address the uncertainties of the risk identified in paragraph (1).

"(4) FINAL RULES.— (A) If no comments opposing the proposed rule are submitted by registrants or other interested persons during the comment period provided under paragraph (3), and if the registrant does not file a timely application for amendment of registration to implement the changes, if any, specified in the proposed rule, the Administrator may issue a final rule. The Administrator shall publish such final rule in the Federal Register. A final rule issued under this paragraph shall not be subject to judicial review.

"(B) If, after reviewing comments submitted pursuant to paragraph (3), the Administrator determines that the standard for taking action under paragraph (1) has been met, the Administrator shall publish a final rule in the Federal Register. The final rule shall include (or incorporate by reference to publicly available documents) the following:

"(i) the terms and conditions of the final rule;

"(ii) the factual and legal bases for the final rule;

"(iii) a summary of the significant comments received under paragraph (3) and the Administrator's responses to those comments; and

"(iv) a description of the additional information needed to address the uncertainties of the risk identified in paragraph (1)

"(C) if, after reviewing the comments submitted under paragraph (3) the Administrator determines not to restrict, reduce, or eliminate pesticide uses or production the Administration shall publish such determination in the Federal Register. Such decision shall include the factual and legal basis for the determination, a summary of the significant comments submitted under paragraph (3), and the Administrator's response to those comments. Such a decision shall be effective upon publication.

"(D) Section 25(a) of this Act shall not apply to proposed or final rules issued pursuant to this subsection.

"(E) Unless otherwise ordered by a court of appropriate jurisdiction, a final rule issued under paragraph (4) shall remain in effect pending the resolution of any regulatory action under section 6 or section 106 or until such time as the Administrator revokes or modifies the rule.

"(5) REVIEW OF INFORMATION.—

"(A) The Administrator shall review promptly upon submission the information identified in the final rule and shall:

"(i) initiate appropriate regulatory action under section 6 or section 106;

"(ii) revoke or modify the rule pursuant to the procedures provided in paragraphs (3) and (4) of this subsection; or

"(iii) issue a final determination to maintain in effect the final rule if the information submitted is not sufficient for the Administrator to proceed under clauses (i) and (ii).

"(B) A final determination issued pursuant to subparagraph (A)(iii) to maintain in effect a final rule shall be published in the Federal Register and shall be subject to judicial review pursuant to section 16(a) of this Act.

"(6) EFFECT ON OTHER AUTHORITIES.—Nothing in this subsection shall limit the authority of the Administrator to take any regulatory or enforcement action at any time under any other provision of this Act.".

SEC. 9. REDUCED RISK PESTICIDES.

(a) REDUCED RISK PESTICIDES.—

(1) Section 3(c)(1) (7 U.S.C. 136a(c)(1)) is amended to add at the end the following:

"(G) If the applicant is requesting designation as a reduced risk pesticide, an explanation of the basis for the request, in accordance with paragraph (9) of this subsection.".

(2) Section 3(c) (7 U.S.C. 136a(c)) is amended to add at the end the following:

"(9) REDUCED RISK PESTICIDES.—

"(A) Not later than 1 year after the enactment of this paragraph, the Administrator shall develop criteria, after opportunity for public comment, for the designation of reduced risk pesticides. Such criteria shall, at a minimum, address potential risks to human health, toxicity to other non-target organisms, environmental persistence, potential to contaminate the environment, and compatibility with integrated pest management strategies.

"(B) Any registrant or applicant for registration may request the Administrator to designate a pesticide as a reduced risk pesticide under this paragraph. The Administrator shall prescribe the form and content of such requests for designation, which shall require the requestor to address each criterion established under subparagraph (A). A request for designation may be combined with an application for registration under this section.

"(C) The Administrator, within 30 days after receiving a request for designation, shall notify the applicant or registrant requesting designation whether the request is complete. If it is found to be incomplete, the Administrator shall reject the request. If the request is complete, the Administrator shall review the request not later than 120 days after receipt, and shall designate the pesticide as a "reduced risk pesticide" if the pesticide meets the criteria for reduced risk issued pursuant to paragraph (A). The Administrator shall publish a notice of findings regarding such designation in the Federal Register.

"(D) If a request for designation is accompanied by an application for registration or amended registration, the Administrator, within 180 days of designating that a pesticide qualifies for reduced risk status, shall complete review of the application and shall notify the applicant or registrant whether the registration or amended registration has been granted or denied. If the application is denied, the Administrator shall comply with the procedures under section 3(c)(6).

"(E) If at any time after the designation of a pesticide as a reduced risk pesticide the registrant has additional information bearing on the pesticide's ability to meet the criteria established under subparagraph (A), the registrant shall immediately submit a report containing such information to the Administrator.

"(F) If at any time after the designation of a pesticide as a reduced risk pesticide the Administrator concludes that the determination made under subparagraph (C) can no longer be supported, the Administrator shall revoke the designation, after providing the registrant with an opportunity for comment on the basis of the Agency's conclusion.

(b) EXCLUSIVE USE OF REDUCED RISK PESTICIDES AND MINOR USE PESTICIDES.—Section 3(c)(1)(D) (7 U.S.C. 136a(c)(1)(D)) is amended to add a new clause (ii) and to redesignate existing clauses (ii) and (iii) as clauses (iii) and (iv), respectively.

"(ii) the period of exclusive data use for data submitted to support the application for the original registration of a pesticide under clause (i) shall be extended by an additional two years if, after the date of enactment of this provision—

"(I) the Administrator approves at least three minor uses of the pesticide prior to the expiration of the period of exclusive use under clause (i); or

"(II) the pesticide has been designated as a reduced risk pesticide pursuant to paragraph (9)(C) of this subsection prior to the expiration of exclusive use under clause (i).

"Any additional exclusive use period under subclause (I) or (II) shall terminate if the original data submitter voluntarily cancels the original registration of the pesticide supported by data described in clause (i) of this subsection. Any additional exclusive use period under subclause (II) shall terminate if the Administrator revokes the designation of a pesticide as reduced risk under paragraph (9)(E) of this subsection.".

(c) DEFINITION OF BIOLOGICAL PESTICIDE.—Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(hh) BIOLOGICAL PESTICIDE.—The term "biological pesticide" means a biochemical pesticide, plant pesticide, or any organism that is a biological control agent, including a microbial pesticide.".

(d) CONDITIONAL REGISTRATION FOR NEW BIOLOGICALS.—Section 3(c)(7) (7 U.S.C. 136a (c)(7)) is amended by adding at the end the following:

"(D) The Administrator may conditionally register a biological pesticide, as that term is defined by section 2 (7 U.S.C. 136) of this Act, or a mixture of biological pesticides not contained in any currently registered pesticide prior to the development of all data necessary for the Administrator to determine whether the pesticide meets the requirements or paragraph (5) of this subsection. A conditional registration under this paragraph may be granted for a period no longer than is necessary for the generation, submission and review of required data and on the condition that by the end of such period the Administrator receives such data and the data do not meet or exceed risk criteria enumerated in regulations issued under this Act, and on such other conditions as the Administrator may prescribe. A conditional registration under this subparagraph shall be granted only if the Administrator determines, based on available information, that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.".

(e) REGISTRATION PRIORITIES.—Section 3(c) is amended by adding at the end the following:

"(10) The Administrator shall give priority to applications in the following order:

"(A) applications for registration of any pesticide that would meet pest control needs which are currently being addressed through pesticide use authorized under Section 18 of this Act;

"(B) applications which EPA considers likely to reduce the risk of adverse effects on the environment from the use of currently registered pesticides subject to proceedings under section 6;

"(C) applications for registration of any pesticide that meets reduced risk criteria established by the Administrator;

"(D) applications for the registration of pesticides for minor uses;

"(E) other applications.".

(f) AMENDMENTS TO CONFORM TO CURRENT REGISTRATION PRIORITIES.—

(1) Section 3(c)(3)(B)(ii) (7 U.S.C. 136a(c)(3)(B)(ii)) is amended as follows:

"(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall, to the extent consistent with the priorities established in subsection (10),—".

(2) RESEARCH AND INVESTIGATION, MONITORING, EDUCATION AND INFORMATION.—Section 20 (7 U.S.C. 136r) is amended as follows:

(A) by redesignating subsections (b) and (c) as (c) and (d), respectively.

(B) by amending subsections (a)-(c) as follows—

"SECTION 20. RESEARCH AND INVESTIGATION, MONITORING, EDUCATION AND INFORMATION"

"(a) COOPERATIVE AGREEMENTS.—The Administrator may enter into cooperative agreements, interagency agreements and contracts with, and issue grants to, Federal, State tribal and local agencies, other public or private agencies, institutions, organizations, and individuals for research, investigations, studies, demonstrations or other activities for the purposes of carrying out this Act. Such activities may include, but are not limited to, research, investigations, demonstrations, and studies in integrated pest management, alternative pest management, and reduced pesticide use. The Administrator shall consult with the Secretary of Agriculture in conducting research, investigations, studies, and demonstrations in integrated pest management, and with the Secretary of State and the Administrator of the Agency for International Development when international activities are involved.

"(b) INFORMATION EXCHANGE.—The Administrator, in cooperation with other Federal, State, Tribal, and local agencies, universities or others, may promote training, education and information exchange for the general public and for pesticide users.".

(3) by adding new subsections (e) and (f) as follows—

"(e) SURVEYS OF INFANTS AND CHILDREN.—The Secretary of Health and Human Services and the Secretary of Agriculture, in consultation with the Administrator, shall review the recommendations of the National Academy of Sciences report, "Pesticides in the Diets of Infants and Children", and conduct surveys to document dietary exposure to pesticides among infants and children and perform such other research and collect such information as they determine would be necessary for the evaluation and implementation of the recommendations.

"(f) DUPLICATION OF ACTIVITIES.—The Administrator shall ensure that activities conducted under this section will not result in unnecessary duplication of activities being undertaken by any other Federal agency or part of the Environmental Protection Agency.".

(3) STATE AND TRIBAL PROGRAM DEVELOPMENT, ENFORCEMENT, AND TRAINING.—Section 23 (7 U.S.C. 136u) is amended as follows:

"SEC. 23. STATE AND TRIBAL PROGRAM DEVELOPMENT, ENFORCEMENT, AND TRAINING.

The Administrator may enter into cooperative agreements, interagency agreements and contracts with, and issue grants to, States and Indian tribes—

"(a) to delegate to any State or Indian tribe the authority to cooperative in the enforcement of this Act through the use of its personnel or facilities, to train personnel of the State or Indian tribe to cooperative in the enforcement of this Act, and to assist States and Indian tribes in implementing cooperative enforcement programs;

"(b) to assist States and Indian tribes in developing and administering State and tribal programs, and to train and certify applicators consistent with the standards the Administrator prescribes; and

"(c) to cooperate in the development of national pesticide programs, including, but not limited to, efforts to protect endangered species, ground water, the public, workers, and users from pesticide contamination and exposure, and to assist States and Indian tribes in implementing effective pesticide programs.

"(d) the Administrator shall, in cooperation with the Secretary of Agriculture, use the services of the cooperation state extension services to inform and educate pesticide users about accepted uses and other regulations made under this Act.".

"(g) ALTERNATIVE PEST CONTROL STRATEGIES.—Section 28 (7 U.S.C. 136w) is amended to read:

"(a) IN GENERAL.

"(1) It shall be the goal of the Secretary, as it relates to research in pest control methods, to support research and development of pest control methods that reduce risks to human health and the environment. The purpose of such research shall be to achieve pest management in the most environmentally sound manner possible, to reduce the incidence of pest resistance, and to develop sufficient pest management alternative to ensure economical agricultural production.

"(2) In support of (1), the following activities shall be pursued:

"(A) COMPARABLE INFORMATION ON PESTICIDE PROPERTIES. The Administrator, in consultation with the Secretary of Agriculture, shall develop and make readily available information that identifies the significant environmental properties and potential human health effects of pesticides, provides for comparison and analysis of those properties, and provides information necessary to assist in establishing priorities for research and development of alternative pest management methods.

"(B) EVALUATION OF EFFECTIVENESS OF PEST CONTROL METHODS. The Secretary of Agriculture, in coordination and cooperation with the Administrator, shall develop a system for evaluating agricultural pest control needs and the effectiveness of available chemical, biological and non-pesticide methods to control pests. Such system shall identify agricultural pest management needs for which there are inadequate methods of control including the incidence of pest resistance and provide a means to assist in setting priorities for research and development.

"(C) RESEARCH PRIORITIES. The Secretary of Agriculture, after consultation with the Administrator, and taking into account private, academic, and other public research activities, shall establish priorities for the Department of Agriculture's research and development efforts in pest management methods. The Secretary shall give highest priority to research and development of methods that would significantly reduce risks to public health and the environment and would meet agricultural pest management needs for which there are inadequate methods of control. The highest priority shall be for research and development into methods that would meet the criteria stated above and would provide pest control methods to serve as alternatives to pesticides identified in (b).

"(b) SAFER ALTERNATIVE PEST CONTROL PLANS.—The Secretary and the Administrator, in consultation with the Secretary of the Interior shall develop and implement a process for coordinating environmental risk reduction through identification of pesticides that pose significant risk to human health or the environment, and for which development of use reduction programs and research on safer alternative means of pest control should be high priority for USDA research programs. The Secretary shall give highest priority to research on methods that would significantly reduce risks to public health and the environment, lead to more sustainable agricultural systems, and would meet significant agricultural pest management needs for which there are inadequate methods of pest management.

"(1) LIST OF PESTICIDES.—The Administrator shall identify and provide to the Secretary of Agriculture, within six months of enactment and annually thereafter, a list of agricultural use pesticides—

"(A) for which the Administrator is considering regulatory action under section 4 or 6 that would affect the availability of the pesticide. Such list shall include the associated agricultural commodities and pests which may be affected by regulatory action regarding the pesticide.

"(B) which otherwise pose significant risks to human health and the environment.

"(C) for which there exists significant instances of pest resistance.

"(2) DEVELOPMENT OF PLANS.—The Secretary shall review all available alternatives to the pesticides contained in the list provided in (b)(1). Not later than 6 months after the Administrator provides the list to the Secretary, the Secretary shall, in consultation with the Administrator, develop a research and technology transfer plan for each pest-commodity combination on the list for which there are insufficient efficacious alternative pest control techniques that present significantly less risk to human health or the environment. In developing and implementing such plans, the Secretary shall give highest priority to those pesticides identified in subsection (b)(1)(A).

"(A) The objectives of each plan shall be:

"(i) to provide alternative pest control methods to growers who will otherwise be limited in the pest control methods available, and;

"(ii) to significantly reduce risks to humans and the environment.

"(B) Each plan shall be developed and implemented in a manner consistent with any schedules for regulatory action in sections 4 and 6.

"(c) RESEARCH.—The research component of each plan shall:

"(1) identify all ongoing research which could support the strategy and establish priorities for research to be undertaken pursuant to the plan;

"(2) provide for the direct involvement of growers in affected regions, educational or research institutions, and other interested persons in the design, implementation and evaluation of the plan;

"(3) give priority to research in cultural pest controls, biological pest controls, and other non-chemical pest controls;

"(d) TECHNOLOGY TRANSFER.—The technology transfer component of each plan shall:

"(1) be developed with direct involvement of affected growers, educational or research institutions and other interested persons;

"(2) provide for farm level education and technology transfer of successful alternative pest controls.

"(3) identify research projects nearing completion which meet the objectives of this subsection and expedite technology transfer of such research to growers."

"(e) COORDINATION WITH REGISTRATION ACTIVITIES.—The Administrator shall give pri-

ority to applications of any pesticide meeting the criteria for reduced risk under section 9 that may be developed as part of the strategy implementation;

"(f) IMPLEMENTATION PLAN.—The Secretary and the Administrator shall prepare annually and present to the House Agriculture Committee and the Senate Agriculture and Forestry Committee report on the progress of pest management for each agricultural commodity for which there exists a plan under paragraph (2). The report shall include an evaluation of whether the plans are meeting the objectives of paragraph (2). Evaluation shall be conducted by a committee that includes affected growers, researchers, members of the public and officials of USDA and EPA. The Secretary and the Administrator shall make necessary modifications to the plans, pursuant to such evaluation.

"(g) USE OF RESEARCH FUNDS.—

"(1) The Secretary shall allocate sufficient appropriated funds to carry out the objectives of this section.

"(2) The Secretary may provide funds to carry out research and technology transfer plans to which grower funds have been committed, including grower check-off programs, marketing orders or other grower funded activities. The Secretary shall give priority to research which is partially funded by non-federal entities. No monies under this section may be made available to persons directly or indirectly engaged in the registration of pesticides under this Act for profit.

"(h) DUPLICATION OF RESEARCH ACTIVITIES.—The Secretary shall ensure that research conducted under this section does not duplicate research being undertaken by other government agencies, academic institutions, or private entities.

"(i) INTEGRATED PEST MANAGEMENT.—The Secretary of Agriculture, in consultation and cooperation with the Administrator shall establish a national goal for the adoption of integrated pest management techniques. Integrated pest management refers to the use of pest management techniques that includes reliance on field monitoring-data, use of economic thresholds in decision-making, conservation of beneficial and non-target species, utilization of biologically based controls and other techniques which minimize the environmental and human health risks of pest management practices. The Secretary of Agriculture, in cooperation with the Administrator, shall implement research, demonstration, and education programs to support meeting the goals for adoption of integrated pest management, and shall collect such information as necessary to evaluate the extent to which the goal is being met. The Secretary of Agriculture and the Administrator shall make information on integrated pest management widely available to pesticide users, including federal agencies. Federal agencies shall use integrated pest management techniques in carrying out pest management activities and shall promote integrated pest management through procurement, regulatory policies, and other activities.

"(j) USE REDUCTION.—The Secretary, in cooperation with the Administrator, shall initiate pilot programs designed to establish and implement pesticide use reduction goals in selected ecosystems, in cooperation with agricultural producers, federal, state and local officials, and other appropriate public and private entities.".

SEC. 10. MINOR USE PESTICIDES.

(a) DEFINITION.—Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(ii) MINOR USE.—The term "minor use" means the use of a pesticide on a commercial agricultural crop, on an animal, or for the protection of public health, for which the Administrator determines that:

"(1) the total United States acreage for the crop is less than 300,000 acres and the average annual value of production for the crop for the three calendar years most recently completed does not exceed $500,000,000 adjusted upward annually for inflation utilizing the Producer Price Index for Farm Products; or

"(2) based on information supplied by the applicant, the use does not provide sufficient economic incentive to support initial or continued registration and one of the following criteria applies:

"(A) there are insufficient efficacious alternative registered pesticides available for the use;

(B) the alternatives to the pesticide pose greater risks to the environment or human health; or

"(C) the pesticide plays a significant part in managing pest resistance.".

(b) ADEQUATE TIME FOR SUBMISSION OF MINOR USE DATA.—Section 4 (7 U.S.C. 136a) is amended by adding at the end the following:

"(m) ADEQUATE TIME FOR SUBMISSION OF MINOR USE DATA.—

"(1) If—

"(A) A registrant requests a waiver, within time frames and in accordance with the terms established by the Administrator for a minor use waiver of data required under this section or section 3(c)(2)(B); and

"(B) The Administrator denies in whole or in part such waiver request;

"the registrant shall have the time period originally established by the Agency for submission of such data, beginning with the date of the Administrator's notification of denial.

"(2) If a registrant requests additional time, within time frames and in accordance with the terms established by the Administrator, for submission of residue chemistry data for one or more minor food uses, the Administrator may approve a time extension for submission of such data until the final deadline, established as of the date of the approval of the request, for the submission of the last data required to support reregistration of the pesticide active ingredient.

"(n) CONTINUATION OF UNSUPPORTED MINOR USES—

"(1) Notwithstanding any other provision of this section, the Administrator, on request of a registrant, many delay action to delete a minor food or feed use for which the registrant has not agreed to timely submit residue data necessary for reregistration under this section. Provided that, the Administrator may approve such delay only if the registrant continues to timely submit all other data necessary for reregistration and provided that the delay would not increase the risk of unreasonable adverse effects on the environment or impair the Administrator's ability to make the determination required by subsection (g)(2). Such delay shall extend no longer than the final deadline, established as of the date of the approval of the request, for the submission of data for the continued uses of the active ingredient.

"(2) The Administrator shall publish in the Federal Register notice of minor uses that are approved for continued use, and the date upon which such will be deleted from the pesticide registrations. Each registrant must cease all distribution and sale of products labeled for the minor use on the established date.

"(3) The Administrator may by order and without hearing delete a use continued under this subsection at any time prior to the established date if no registrant is fulfilling data requirements (other than residue chemistry data) necessary for reregistration, or if the Administrator determines that the delay may increase the risk of unreasonable adverse effects on the environment or significantly impair the ability to make the determination required by subsection (g)(2). If the registrant does not comply with the order to remove the use from its product registrations, the Administrator shall cancel registrations continuing the use by order without a hearing.

"(o) AUTHORIZATION OF FUNDS TO DEVELOP PUBLIC HEALTH DATA—

"(1) For the purposes of this section, "Secretary" means Secretary of Health and Human Services, acting through the Public Health Service.

"(2) In the case of a pesticide registered for use in public health programs for vector control or for other uses the Administrator determines to be human health protection uses, the Administration shall upon timely request by the registrant or any other interested person, or on the Administrator's own initiative may, consult with the Secretary prior to taking final action to suspend registration under section 3(c)(2)(B)(iv), or cancel a registration under sections 4, 6(e) or 6(f). In consultation with the Secretary, the Administrator shall prescribe the form and content of requests under this section.

"(3) The Administrator, after consulting with the Secretary, shall make a determination whether the potential benefits of continued use of the pesticide for public health or health protection purposes are of such significance as to warrant a commitment by the Secretary to conduct or to arrange for the conduct of the studies required by the Administrator to support continued registration under Section 3 or reregistration under Section 4.

"(4) If the Administrator determines that such a commitment is warranted and in the public interest, the Administrator shall notify the Secretary and shall, to the extent necessary, amend a notice issued under section 3(c)(2)(B) to specify additional reasonable time periods for submission of the data.

"(5) The Secretary shall make such arrangements for the conduct of required studies as the Secretary finds necessary and appropriate to permit submission of data in accordance with the time periods prescribed by the Administrator. Such arrangements may include, but are not limited to, Public Health Service intramural research activities, grants, contracts or cooperative agreements with academic, public health, or other organizations qualified by experience and training to conduct such studies.

"(6) The Secretary may provide for support of the required studies using funds authorized to be appropriated under this section, the Public Health Service Act, or other appropriate authorities. After a determination is made under subsection (d), the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate of the sums required to conduct the necessary studies.

"(7) There is authorized to be appropriated to carry out the purposes of this section $12,000,000 for fiscal year 1993, and such sums as may be necessary for succeeding fiscal years.".

SEC. 11. PESTICIDE FEES.

(a) WAIVER OF FEES FOR BIOLOGICAL PESTICIDES.—Section 4(i)(4) (U.S.C. 136a-1(i)(4)) is amended by:

(1) renumbering subparagraph (C) as subparagraph (D); and

(2) adding the following new subparagraph (C):

"(C) A biological pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraphs (1), (2), and (3).".

(b) CONTINUATION OF MAINTENANCE FEES.—Section 4(i)(5)(E) (U.S.C. 136a-1(4)(i)(5)(E)) is amended to read as follows:

"(E) The authority provided under this paragraph shall terminate on September 30, 1999.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4(i)(6) (U.S.C. 136a-1(4)(i)(6)) is repealed, and subsection (7) is renumbered as subsection (6).

(2) Section 4(i) (U.S.C. 136a-1(4)(i)) is amended to add at the end the following:

"(7) SUPPLEMENTAL REREGISTRATION FEE.—

"(A) In addition to fees required pursuant to paragraphs (1)-(5), the registrants of pesticides that contain an active ingredient that is listed under subparagraphs (A), (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of up to $120,000 at such time as the Administrator shall prescribe subject to the limitation of subparagraph (C).

"(B) In addition to fees required pursuant to paragraphs (1)-(5), the registrants of pesticides that contain an active ingredient that is listed under subparagraphs (A), (B), (C), or (D) of subsection (c)(2) and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of up to $60,000 at such time as the Administrator shall prescribe subject to the limitation of subparagraph (D).

"(C) The first ½ of the total fee due under subparagraph (A) or (B) shall be paid not later than nine months after the effective date of this paragraph and the remaining ½ not later than 21 months after the effective date of this paragraph.

"(D) If 2 or more registrants are required to pay any fee prescribed by subparagraph (A) or (B) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the calendar years 1990 through 1992; provided, that no fee shall be collected from registrants owing less than $100.00.

"(E) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under subparagraph (A) or (B), and (D), or to determine the registrant eligibility for a reduction or waiver of a fee.

"(F) If a report required under subparagraph (E) is not submitted by a registrant by the time prescribed, or if any fee prescribed by subparagraph (A) or (B) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the reporting requirement or fee is imposed.

"(G) An active ingredient that is contained only in pesticides that are registered solely for agricultural or non-agricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by subparagraph (B).

"(H) A biological pesticide shall be exempt from the fees prescribed by subparagraphs (A) and (B).

"(8) PESTICIDE PRODUCT REREGISTRATION FEE.—

"(A) For all determinations pursuant to subsection (g)(2) that a pesticide is eligible for reregistration, the registrant of that pesticide shall pay a fee of $750 for each affected product.

"(B) The amount of the fee prescribed under subparagraph (A) may be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of at least $4,000,000, over 4 years after enactment.

"(C) If any fee prescribed by this paragraph is not paid within 90 days of the registrant's receipt of the reregistration eligibility determination specified in Section 4(g)(2), or within 270 days after enactment of this subparagraph, whichever is later, the Administrator, by order and without hearing, may cancel the current registration and deny reregistration for the pesticide for which the fee is not paid.

"(D) In the case of a pesticide that is registered for a minor agricultural use or the value of volume of use of which is small, the Administrator may reduce or waive the payment of the fee imposed under this paragraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.

"(E) The cumulative maximum fees payable by a single registrant under this paragraph shall be $75,000. A registrant shall be required to pay no more than one fee for each product.".

SEC. 12. USE-BY-PRESCRIPTION.

Section 3(d)(1)(C)(ii) (7 U.S.C. 136a (d)(1)(C)(ii)) is amended and Subsection (iii) is added at the end:

"(ii) If the Administrator classifies a pesticide, or one or more uses of a pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied only by or under the direct supervision of a certified applicator, or subject to such other restrictions as the Administrator may provide by regulation. A restricted use classification or a change in classification of any use of a pesticide from general to restricted use established by rule under this clause shall not be subject to the provisions of section 6(b).

"(iii) The Administrator may include a provision in a rule issued pursuant to subsection (ii) restricting a pesticide to use only by prescription if the Administrator determines that retaining the use of a pesticide subject to such restriction is necessary for integrated pest management programs, pest resistance programs or otherwise to reduce risk. If the Administrator includes such a provision in a rule issued pursuant to paragraph (ii), the Administrator shall (I) prohibit the use of the pesticide in any state for which the state has not developed, in accordance with criteria established by the Administrator, an appropriate state prescription use plan, or (II) establish criteria for issuing pesticide use prescriptions, and may authorize persons qualified under such criteria to issue prescriptions pursuant to the rule.".

SEC. 13. JUDICIAL REVIEW.

(b) REVIEW BY COURTS OF APPEALS.—Sections 16(b) (7 U.S.C. 136n(b)) and Section 16(c) (7 U.S.C. 136n(c)) are amended to read as follows:

"(b) REVIEW BY COURTS OF APPEALS.—

"(1) REVIEW IN THE DISTRICT OF COLUMBIA CIRCUIT.—A petition for review of any of the following actions of the Administrator may be filed by any adversely affected persons only in the United States Court of Appeals for the District of Columbia Circuit:

"(A) the promulgation of any regulations by the Administrator under this Act, or a final determination maintaining in effect a final rule under section 6(i)(5)(A)(iii) of this Act;

"(B) a final order of the Administrator canceling or suspending a pesticide registration in whole or in part or concluding that a pesticide registration should not be canceled or suspended;

"(C) a final order of the Administrator approving or denying an application for a pesticide registration;

"(D) a final order of the Administrator changing the classification of any use of a pesticide;

"(E) a final order of the Administrator responding to objections to a notice requiring changes in the labeling, packaging, or composition of a pesticide;

"(F) a final order of the Administrator denying a petition seeking to suspend or cancel a pesticide registration, to deny an application for a registration, to reconsider whether a registration should be suspended, or to change the classification of a pesticide;

"(G) a final determination of the Administrator to renew a pesticide registration under section 3(g)(4);

"(H) a final determination of the Administrator resulting in the expiration of a registration under section 3(g)(5);

"(I) a final order issuing or denying an emergency exemption to a Federal agency.

"(2) REVIEW BY OTHER COURTS OF APPEALS.—A petition for review of any of the following actions of the Administrator may be filed by any adversely affected person only in the United States court of appeals for the circuit in which the state in question is located or in which a hearing assessing a civil penalty occurred:

"(A) a final order following a hearing assessing a civil penalty;

"(B) a final order of the Administrator determining that a state shall have primary enforcement authority pursuant to section 26 of this Act;

"(C) a final order of the Administrator rescinding primary enforcement authority pursuant to section 27 of this Act;

"(D) a final order of the Administrator approving or disapproving a state certification plan for pesticide applicators pursuant to section 11 of this Act;

"(E) a final order approving or disapproving a state plan for the issuance of experimental use permits under section 5 of the Act;

"(F) a final order of the Administrator disapproving a state's registration of a pesticide or suspending a state's authority to register pesticides pursuant to section 24 of this Act; or

"(G) a final order issuing or denying an emergency exemption to a state.

"(3) PROCEDURE.—Except as provided in paragraph (4) of this subsection, any petition for review under paragraph (1) or (2) of this subsection must be filed within sixty days of the final action unless the petition for review is based solely on grounds rising after the sixtieth day. Judicial review shall be in accordance with sections 701 through 706 of Title 5 of the United States Code, and the challenged action shall be sustained unless it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. Actions of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judi-

cial review in civil or criminal proceedings for enforcement.

"(4) IMMINENT HAZARD SUSPENSION.—Any petition for review under paragraph (1) of a suspension order or denial of a petition to reconsider suspension issued by the Administrator pursuant to section 6(c) of this Act must be filed within ten (10) days of publication of the suspension order in the Federal Register, or, in the case of a challenge of the denial of a petition to reconsider suspension, within twenty (20) days of publication of the Administrator's order denying the petition for reconsideration. The commencement of proceedings under this paragraph shall not operate as a stay of the suspension order unless otherwise ordered by the court. The effect of any order of the court of appeals will be only either to stay or uphold the effectiveness of the suspension order, pending the Administrator's final determination with respect to cancellation. Review of a suspension order issued pursuant to section 6(c)(1), or review of the petitioner's likelihood of success on the merits of the case pursuant to a request for a temporary stay from the suspension order, shall be based solely on the information available to the Agency as of the date the Administrator issued the suspension order. Other information not available to the Administrator in issuing the suspension order under section 6(c)(1) may be introduced solely through the procedures for reconsideration of a suspension order set forth in section 6(c)(4).

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction over—

"(1) actions to enforce, and to prevent and restrain violations of, this Act; and

"(2) challenges to any other final actions that are not committed to the Administrator's discretion by law and which are not subject to review in the courts of appeals under subsection (a) of this section.".

SEC. 14. INDEMNIFICATION.

INDEMNIFICATION.—Section 15 (7 U.S.C. 136m) is amended by adding at the end the following:

"(d) TIME LIMITATION FOR INDEMNITY PAYMENT.—Any claim for an indemnity payment from the United States under subsection (a) or (b) shall be barred unless it is made no later than—

"(1) 1 year after enactment of this subsection if the pesticide was canceled prior to the enactment of this subsection; or

"(2) 3 year after cancellation if the pesticide was canceled after the enactment of this subsection.".

SEC. 15. CERTIFICATION AND TRAINING.

INSTRUCTION IN INTEGRATED PEST MANAGEMENT TECHNIQUES.—Section 11(c) (7 U.S.C. 136i(c)) is amended to read as follows:

"(c) INSTRUCTION IN INTEGRATED PEST MANAGEMENT TECHNIQUES.—Standards prescribed by the Administrator for the certification of applicators of pesticides under subsection (a), and the State plans submitted to the Administrator under subsections (a) and (b), shall include provisions for making instructional materials concerning integrated pest management techniques available to individuals at their request in accordance with the provisions of section 23(c) of this Act. The Administrator and States implementing such plans shall provide that all interested individuals are notified of the availability of such instructional materials.".

SEC. 16. PESTICIDE RECORDKEEPING.

Section 7 U.S.C. 136i-1(a) is amended as follows:

(1) in subsection (1), by striking "certified applicators" through "136a(d)(1)(C) of this title" and inserting "users of pesticides when used in agricultural production"; and

(2) in subsection (2), by striking "a commercial certified" and inserting "a pesticide user".

(3) in subsection (b), by striking "individual applicators" and inserting "individual users."

SEC. 17. ENFORCEMENT.

(a) DEFINITIONS

(1) Sections 2(e) (7 U.S.C. 136e) is amended as follows:

"(e) APPLICATOR.—

"(1) CERTIFIED APPLICATOR.—The term "certified applicator" means any individual who is certified under section 136b of this title as authorized to use or supervise the use of any pesticide which is classified for restricted use. Any applicator who holds or applies registered pesticides, or uses dilutions of registered pesticides consistent with subsection (ee) of this section, only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller of distributor of pesticides under this subchapter.

"(2) COMMERCIAL APPLICATOR.—

"(A) Except as provided in subparagraph (3), the term "commercial applicator" means a person who—

"(i) uses or supervises the use, for any purpose or on any property, of any pesticide that is classified for restricted use;

"(ii) uses or supervises the use of any pesticide for hire as a principal part of the business or work of the person; or

"(iii) as an employee of a person described in clause (ii), uses or supervises the use of any pesticide.

"(3) PRIVATE APPLICATOR.—The term "private applicator" means a person who uses or supervises the use of any pesticide that is classified for restricted use for purposes of producing any agricultural product—

"(A) on property owned or rented by such person or the employer of such person; or

"(B) on other property if applied without compensation (other than trading of personal services between producers of agricultural products).

"(4) UNDER THE DIRECT SUPERVISION OF A CERTIFIED APPLICATOR.—Unless otherwise prescribed by its labeling, a pesticide shall be considered to be used under the direct supervision of a certified applicator if the pesticide is applied by a person acting under the instructions and control of a certified applicator who is available, if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is used.".

(20 Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(jj) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any place where any person conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof), device, or container or packaging of any pesticide or device, on its behalf or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide. The term does not include any place solely on account of—

(i) the participation of a commercial agricultural producer as a cooperator in field testing of a pesticide; or

"(ii) the conduct of academic research at the facility.

"(kk) PESTICIDE DEALER.—The term "pesticide dealer" means any person who, in the ordinary course of business, distributes or sells any pesticide.

"(11) AGRICULTURAL PRODUCER.—The term "agricultural producer" as used in this Chapter means a person who produces any plant, or part thereof, or animal, or animal product, primarily for sale, consumption, propagation, or other use by humans or animals, including farmers, ranchers, vineyardists, plant propagations, Christmas tree growers, aquaculturalists, floriculturalists, orchardists, foresters, or other comparable persons, but not including C corporations as defined in 26 U.S.C. 1362 (a)(2).".

(b) RECORDKEEPING.—Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8 RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—

"(1) IN GENERAL.—The Administrator, by regulation, shall require any producer, distributor, importer or exporter of a pesticide, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or any holder of a pesticide that is the subject of a regulation or order issued under section 19(b) or under subsection 106.

"(A) to prepare, and to maintain for reasonable periods of time, such records as the Administrator finds to be necessary for the effective implementation or enforcement of this Act;

"(B) to furnish to the Administrator reports stating the location where the records are maintained; and

"(C) to furnish a copy of any such record to the Administrator on written request.

"(2) RECORDS OF COMMERCIAL APPLICATORS.—The Administrator, by regulation, shall require each commercial applicator to maintain, and may require a commercial applicator to provide the Administrator, records of each pesticide application, including the identity and quantity of pesticide applied and the date and location of such application, for a period of 5 years after each such application.

"(3) RECORDS OF PESTICIDE DEALERS.—

"(A) IN GENERAL.—The Administrator, by regulation, shall require each pesticide dealer to maintain a record of each sale or distribution of—

"(i) a pesticide classified for restricted use; and

"(ii) any other pesticide designated for purposes of this subsection by order by the Administrator if the Administrator determines that such records may be necessary to carry out the purposes of this Act.

"(B) CONTENTS.—Such records shall include the identity of the pesticide sold or distributed, the identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the amount of the pesticide distributed or sold.

"(C) DURATION.—A pesticide dealer shall maintain the records required under this subsection for 5 years after the date of the distribution or sale.

"(b) LIMITATIONS.—The Administrator may not, under the authority of subsection (a), require any person to maintain records of—

"(1) financial data, pricing data, or sales data other than shipment data;

"(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

"(3) research or test data other than—

"(A) data relating to a registered pesticide;

"(B) data relating to any pesticide for which an application for registration or for an experimental use permit has been filed;

"(C) data relating to any pesticide for which an exemption pursuant to section 18 has been requested;

"(D) data relating to any pesticide for which a regulation has been promulgated pursuant to section 3(a);

"(E) data relating to testing at a pesticide testing facility; or

"(F) data relating to the storage or disposal of a pesticide whose registration has been suspended or canceled.".

(c) INSPECTION AUTHORITY.—Section 9 (7 U.S.C. 136g) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, COPY, AND OBTAIN SAMPLES.—An officer or employee of the United States or of any State, duly designated by the Administrator, is authorized at reasonable times as provided by this section—

"(1) to enter and inspect—

"(A) any place where any pesticide, active ingredient, or device is produced, sold, distributed, stored, packaged, used, or found;

"(B) any place where any records required under this Act are kept;

"(C) any pesticide testing facility;

"(D) any place where such officer or employee has reason to believe that this Act has been or is being violated; or

"(E) any place when the Administrator or States seek information as part of an inquiry into specific environmental or health problems.

"(2) to obtain—

"(A) samples of any pesticide (or any ingredient, metabolite, or degradation product thereof) or device, or any container or packaging of any pesticide or device;

"(B) copies of any records required under this Act or of any labels or labeling of a pesticide, active ingredient or device;

"(C) copies of documents related to compliance with the provisions of this Act;

"(D) copies of any data or samples of any specimens involved in the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof) or device; or

"(E) samples of and places where pesticide residues may be found, including without limitation, agricultural commodities, animals, pests, soil, or water.

"Provided that, nothing in this Act shall be construed as authorizing officers or employees of the United States or of any State to enter and inspect private residences or land, property and appurtenances used in agricultural production unless there is a suspected violation of this Act or the Administrator or any State is seeking information as part of an inquiry into specific environmental or health problems.

"(b) ADMINISTRATIVE WARRANTS.—An officer or employee of the United States or of any State, duly authorized by the Administrator, is empowered to obtain and execute warrants authorizing

"(1) entry, inspection, and obtaining of evidence for the purposes of this section or section 8;

"(2) inspection and copying of all records required under this Act or documents related to compliance with the provisions of this Act; and

"(3) seizure of any pesticide, device, active ingredient, labeling, or packaging that is in violation of this Act.

"(c) PROCEDURE.—

"(1) CREDENTIALS AND STATEMENTS.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the entry or inspection and whether a violation of this Act is suspected.

"(2) PROMPTNESS.—Each entry or inspection shall be commenced and completed with reasonable promptness.

"(3) SAMPLES.—If the person conducting the entry or inspection obtains any samples pursuant to subparagraph 9(a)(2), before leaving the premises such person shall give to the person in charge of the premises a receipt describing the sample and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of any such sample, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.

"(d) COORDINATION.—The Administrator shall coordinate actions taken under this section with actions taken under other Federal laws for the purpose of avoiding duplication of inspections.".

(d) CONFIDENTIAL BUSINESS INFORMATION TO STATES.—Section 10 (7 U.S.C. 136h) is amended by adding at the end the following:

"(h) DATA DISCLOSURE TO STATES.—The Administrator may disclose to a State any data or information acquired under this Act if the State assures the Administrator, and the Administrator determines, that

"(1) the submitter of the data or information will receive no less protection with respect to the disclosure and use of the data or information by the State than is otherwise provided by this Act; and

"(2) the laws of the State allow the submitter of the data or information to recover just compensation in a civil action against the State for losses resulting from the disclosure or use of the data or information by the State or its employees or agents in a manner inconsistent with this Act.".

(e) UNLAWFUL ACTS—

(1) Section 12(a)(1) (7 U.S.C. 136j(a)(1)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) Except as provided in subsection (b), it shall be unlawful for any person in any state to fail or refuse to comply with any rule promulgated or order issued under Section 3, 4, or 8 of this Act, or to distribute or sell to any person—"."

(2) Section 12(a)(2)(B) (7 U.S.C. 136j (a)(2)(B)) is amended to read as follows:

"(B) to refuse to—

"(i) prepare, maintain, or submit any records required by or under section 5, 7, 8, 11, 17, or 19;

"(ii) submit any reports required by or under section 5, 6, 7, 8, 11, 17, or 19; or

"(iii) allow any entry, inspection, copying of records, or sampling authorized by this Act.

(3) Sections 12(a)(2)(I), (M), (N), and (O) (7 U.S.C. 136j (a)(2)(I), (M), (N), (O)) are amended to read as follows:

"(I) to violate any order or subpoena issued under section 13.

"(M) to knowingly make any false material statement, representation or certification in, fail to maintain, omit material information from, or alter, conceal or fail to file, any notice, application, record, report or other document or information required pursuant to this Act to be submitted, filed or maintained (whether such requirement is imposed by the Administrator or by a state).

"(N) who is a registrant, wholesaler, dealer, retailer or other distributor, commercial applicator, or private applicator, to fail to file reports required by this Act.

"(O) to violate any regulation issued pursuant to this Act.".

(4) Section 12(a)(2) (7 U.S.C. 136j (a)(2) is amended by adding at the end the following:

"(U) who is a registrant, to violate any term or condition of a registration issued pursuant to this Act.

"(V) to violate any administrative order issued pursuant to section 14(b) of the Act.".

(5) Section 12 (7 U.S.C. 136(j)) is amended by adding at the end the following:

"(c) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall be deemed to be the act, omission, or failure of such person as well as that of the person employed.".

(f) SUBPOENAS.—Section 13 (7 U.S.C. 136k) is amended by adding at the end the following:

"(e) SUBPOENA AUTHORITY.—In carrying out this Act, the Administrator may be subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the Administrator deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure, or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.".

(g) ENFORCEMENT AUTHORITY.—Section 14 (7 U.S.C. 1361) is amended to read as follows:

"(a) ENFORCEMENT AUTHORITIES.—

"(1) Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is violation of, any requirement of this Act, including, but not limited to, a requirement or prohibition of any rule, order, or registration promulgated, issued, or approved under this Act, the Administrator may:

"(A) issue an administrative order in accordance with subsection (b) of this section, requiring such person to comply with such requirement or prohibition;

"(B) issue an administrative penalty order in accordance with subsection (c) of this section;

"(C) request the Attorney General to commence a civil action in accordance with subsection (d) of this section; or

"(D) request the Attorney General to commence a criminal action in accordance with subsection (e) of this section.

"(2) NOTICE TO STATE.—A copy of any (1) administrative order issued pursuant to subsection (b) of this section, (2) administrative penalty order issued pursuant to subsection (c) of this section, or (3) civil judicial complaint filed pursuant to subsection (d) or subsection (g) of this section shall be sent to the State agency regulating pesticides in the State in which the violation occurs.

"(3) WARNING NOTICES.—The Administrator may issue a warning notice for a first-time violation of the Act by a private applicator, unless the violation is a knowing violation.

"(b) REQUIREMENTS FOR ADMINISTRATIVE ORDERS.—

"(1) IN GENERAL.—Any person who has violated, or is in violation of, any provision of this Act or a regulation promulgated thereunder, may be ordered by the Administrator to cease their violative activities or to comply with applicable requirements of this Act or regulations issued under this Act.

"(2) CONTENTS OR ORDER.—Any order issued under this subsection shall state with reasonable specificity the nature of the violation and specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to com-

ply with applicable requirements. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement immediately or within a specified time period, but in no event longer than one year after the date the order was issued.

"(3) VIOLATION OF ORDER.—If a violator fails to take corrective action within the time specified in the order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(4) CONSULTATION WITH ADMINISTRATOR.—The recipient of an order issued under this section (other than an administrative penalty order as described in subsection (c)), shall have an opportunity, within 10 days of the order's issuance, to consult with the Administrator or any duly designated representative concerning the alleged violation.

"(5) OTHER REMEDIES AND OBLIGATIONS.—No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State's or the United States' authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act or with a term or condition of any registration approved under this Act.

"(6) TIMING OF REVIEW.—No Federal court shall have jurisdiction under any Federal or State law to review any order issued under this subsection in any action except an action to enforce an order issued under this subsection or to recover a civil penalty for violation of, or noncompliance with, such order.

"(c) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—

"(1) IN GENERAL.—Any person who has violated, or is in violation of, any provision of this Act or regulation promulgated thereunder shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 or the economic benefit of noncompliance, whichever is higher, for each such violation. Each day such a violation continues shall, for purposes of this subsection, constitute a separate violation of the Act. The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $400,000, except where the Administrator and the Attorney General jointly determine that a matter or matters involving a larger penalty amount are appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

"(2) HEARING.—A civil penalty for a violation of this Act shall be assessed by the Administrator by an order made on the record after an opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order by the Administrator, and shall provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

"(3) DETERMINATION OF PENALTY.—In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations (including whether the violation was a first-time violation), the degree of culpability, the economic benefit of noncompliance and such other matters as justice may require.

"(4) The minimum penalty the Administrator must assess under this subsection upon a determination of liability is the amount of the economic benefit resulting from the violation, where such economic benefit, if any, is calculable, provided that nothing in this subsection shall limit the Administrator's discretion to issue warning notices pursuant to section 14(a)(3) of the Act.

"(5) MODIFICATION OF PENALTY.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(6) JUDICIAL REVIEW.—Any person who requested in accordance with paragraph (2) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty, or against whom a civil penalty is assessed under paragraph (8) of this subsection, may seek judicial review in accordance with section 16(a)(2) of the Act.

"(7) FAILURE TO PAY.—

"(A) If a person fails to pay an assessment of a civil penalty—

"(i) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

"(ii) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

"the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

"(B) Any person who fails to pay on a timely basis a civil penalty ordered and assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of each quarter.

"(8) SUBPOENAS.—The Administrator, in connection with administrative proceedings under this subsection, may issue subpoenas compelling the attendance and testimony of witnesses and the production of documents, and may request the Attorney General to bring an action to enforce any subpoena issued under this paragraph. The district courts of the United States shall have jurisdiction to enforce such subpoenas and impose sanctions.

"(d) CIVIL JUDICIAL ENFORCEMENT.—

"(1) IN GENERAL.—The Administrator may commence a civil action for a temporary or permanent injunction, and/or to compel compliance, and/or to assess and recover a civil penalty of not more than $25,000 or the economic benefit of noncompliance, whichever is higher, for each day of violation, whenever such person has violated or is in violation of a requirement or prohibition of this Act, or a regulation promulgated thereunder.

"(2) JURISDICTION.—Any action under this subsection may be brought in the district court for the United States for the district in which the violation is alleged to have occurred, or is occurring, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess civil penalties, to collect any fees owed the United States under this Act, and to award any other appropriate relief.

"(3) DETERMINATION OF PENALTY.—In determining the amount of a civil penalty, the court shall take into account the factors enumerated in subsection (c)(3) of this section.

"(4) MINIMUM PENALTY.—The minimum penalty the court must assess under this subsection upon a determination of liability is the amount of the economic benefit, if any, resulting from the violation, where such economic benefit is calculable.

"(e) CRIMINAL PENALTIES.—

"(1) Any person who negligently commits any act prohibited under section 136j of this Title shall, upon conviction, be punished by a fine of not more than $25,000 for each day of violation, or by imprisonment for not more than one year, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(2) Any person who knowingly commits any act prohibited under section 136j of this Title shall, upon conviction, be punished by a fine of not more than $50,000 for each day of violation, or by imprisonment for not more than 5 years, or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(3)(A) Any person who commits any violation under paragraph (2) of this subsection and in the course of or in connection with committing such violation knows at the time that he places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be punished by a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than $1,000,000. If a conviction of a person is for a violation committed after a first conviction of such person under this subparagraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

"(B) For purposes of this subparagraph:

"(1) the term "imminent danger" means the existence of a condition or set of conditions that could reasonably be expected to cause death or serious bodily injury unless the condition is remedied; and

"(ii) the term "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(4) Notwithstanding any other provision of law, a court may make the following disposition of fines imposed under this Title, in addition to payment, if any, to the United States Treasury.

"(A) Upon recommendation of the United States, and in accordance with the terms of

such recommendation, the court may pay to an individual who has given information or services leading to a criminal conviction under this Title an amount from the criminal fine assessed as a result of any violation of this subchapter not more than the lesser of one-half the fine imposed or $50,000.

"(B) Upon recommendation of the United States, and in accordance with the terms of such recommendation, the court may pay to any state, municipality or other political subdivision of a state, which has given significant support to the prosecution or investigation leading to a conviction under this Title, an amount not more than one-half of the fine imposed for that conviction.

"(f) Emergency Powers.—Notwithstanding any other provision of this Act, the Administrator, upon receipt of evidence that a specific use of a pesticide or pesticide device is presenting an imminent and substantial endangerment to public health or welfare, or the environment, may request the Attorney General to bring suit on behalf of the United States in the appropriate United States district court to immediately restrain any person using such pesticide or device to stop the activity or to take such other action as may be necessary, provided that relief under this subsection does not include suspension under Section 6(c) of the Act and is not available where the Administrator, in his discretion, determines that a suspension under Section 6(c) is adequate to stop or prevent the imminent and substantial endangerment. If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than 60 days, unless an action is brought pursuant to the first sentence of this section before the expiration of that period. Whenever such an action is brought within the 60-day period, the order shall remain in effect for an additional 14 days or for such longer period as may be authorized by the court in which such action is brought. Any order issued under this paragraph shall not be subject to judicial review except during judicial enforcement proceedings brought by the Attorney General of his delegate. Nothing herein shall diminish the right of any person subject to a suspension proceeding under Section 6(c) of the Act.".

(h) CONTRACTOR LISTING.—Section 32 (7 U.S.C. 136 (z)) is added following Section 31:

"SEC. 32. FEDERAL PROCUREMENT.—

"(A) CONTRACTS PROHIBITED WITH CONVICTED VIOLATORS.—No Federal agency may enter into any contract, grant, or loan with any person who has been convicted of any offense under Section 1361 of this Title, if the contract for the procurement of goods, materials, and services, or the grant or loan is to be performed, in whole or in any part, at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, operated, leased, or supervised at the time of the violation by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) NOTIFICATION.—The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

"(c) DISCLOSURE.—Each applicant who seeks to participate in a federal contract, grant, or loan shall disclose any conviction described in subsection (a) to each appropriate Federal agency.

"(d) EXEMPTIONS.—The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.".

(i) CITIZEN SUITS.—Section 33 (7 U.S.C. 136aa) is added following Section 32 to read as follows:

"SEC. 33. CITIZEN SUITS.—

(a) Except as provided in subsection (b), any person may commence a civil action on his own behalf—

"(1) against any person (including any governmental instrumentality or agency to the extent permitted by the Eleventh Amendment to the Constitution) who is alleged to have violated or to be in violation of any provision of the Act or any rule promulgated thereunder, except that no such action may be brought against any agricultural producer who is alleged to have committed a violation or to be in violation while engaged in the production of agricultural product; or

"(2) against any Federal official where there is alleged a failure of the Federal official to perform any act or duty under this Act which is not discretionary with the federal official.

"The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the Act and the regulations promulgated thereunder, to order any appropriate relief under Section XX of the Act, and to impose any appropriate civil penalties (except for actions under subsection (2)) for violations of the Act. The district court shall have jurisdiction in actions brought under subsection (a)(2) against the federal official to order the Federal official to perform such act or duty.

"(b) No actions may be commenced—

"(1) under subsection (a)(1)—

"(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator, to the State in which the violation occurs, and to any alleged violator; or

"(B) if the Administrator or State with primary enforcement responsibility under Section 26 of the Act has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State or a federal administrative penalty action to require compliance with the Act or a regulation promulgated thereunder, but in any such civil action any person may intervene as a matter of right.

"(2) under subsection (a)(2) prior to 60 days after the plaintiff has given notice of such action to the Federal official.

"Notices under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c) Any person may request the Administrator or a State with primary enforcement authority to commence an action against any agricultural producer who is alleged to have violated or to be in violation of any provision of the Act or any rule promulgated thereunder while engaged in the production of any agricultural product. A copy of such a request shall be given to the alleged violator. Within 60 days after such request is made to the administrator or a State, the Administrator or State shall either—

"(1) commence an action against the alleged violator; or

"(2) provide to the person making the request a written response that (A) states the Administrator's or the State's decision not to take enforcement action against the alleged violator and (B) describes any other action the Administrator or State has taken or intends to take in connection with the alleged violation.

"The response of the Administrator or State under subsection (c)(2) shall not be subject to judicial review."

"(d)(1) In any action under this section, the United States may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not have any binding effect upon the United States.

"(2) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 60 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right. The court shall not approve a proposed consent judgment that is inappropriate, improper, inadequate, or inconsistent with the purposes or requirements of the Act, and shall consider any views expressed by the United States with respect to the consent judgment.

"(e) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party. The court may, if a temporary restraining order of preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(f) Nothing in this section shall restrict any right which any person, or class of persons, may have under any statute or common law to seek enforcement of any requirement or to seek any other relief (including relief against Federal officials or a State agency).

"(g) Any action under this Section shall be brought in accordance with the provisions of 28 U.S.C. Section 1391.".

(j) INDIAN TRIBES.—Section 34 (7 U.S.C. 136bb) is added following Section 33 to read as follows:

"SEC. 34. INDIAN TRIBES.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations to treat Indian Tribes in the manner that States are treated under the Act. Such treatment shall be authorized only if:

"(A) the Indian Tribe is recognized by the Secretary of the Interior and has a governing body carrying out appropriate governmental duties and powers; and,

"(B) the functions to be exercised by the Indian Tribe are within the area of the Tribe's jurisdiction.".

SEC. 18. WHISTLE BLOWER.

Section 35 (7 U.S.C. 136cc) is added following Section 34 to read as follows:

"SEC. 35. WHISTLE BLOWER.—

"(a) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee (or any persons acting pursuant to a request of the employee) has—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter; or

"(2) testified or is about to testify in any such proceeding; or

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this chapter.

"(b) REMEDY.—

"(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereafter in this section referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 120 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant of this paragraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of subsection (a) of this section has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with compensation (including back pay) terms, condition, and privileges of the complainant's employment, (iii) compensatory damages and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses, (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c) REVIEW.—

"(1) Any employee or employer adversely affected or aggrieved by an order issued under subsection (b) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of Title 5.

"(2) An order of the Secretary, with respect to which review could have been obtained under paragraph (1), shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) ENFORCEMENT.—Whenever a person has failed to comply with an order issued under subsection (b)(2) of this section, the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory and exemplary damages.

"(e) EXCLUSION.—Subsection (a) of this section shall not apply with respect to any employee who, acting without direction from the employee's employer (or any agent of the employer), deliberately causes a violation of any requirement of this chapter.".●

By Mr. WARNER:

S. 2051. A bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes; to the Committee on Labor and Human Resources.

THE VOLUNTEER FIREFIGHTER AND RESCUE SQUAD WORKER ACT

Mr. WARNER. Mr. President, I rise today to introduce legislation to amend the Fair Labor Standards Act of 1938. This is a companion measure to legislation, H.R. 3949, introduced in the House of Representatives by Virginia Congressman HERB BATEMAN.

My bill may be referred to as the Volunteer Firefighter and Rescue Squad Worker Act of 1994.

The purpose of the Volunteer Firefighter and Rescue Squad Worker Act is to amend the Fair Labor Standards Act of 1938 to exclude from the definition of "employee" firefighters and rescue squad workers who perform volunteer services. In addition, it will prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and will allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services.

The need for this legislation stems from a 1993 U.S. Department of Labor ruling which found that a career firefighter cannot serve as a volunteer firefighter within the same county as they are employed. This ruling is commonly referred to as the Montgomery County, Maryland decision.

The Department of Labor's interpretation of the Fair Labor Standards Act in the Montgomery decision has prompted a great deal of concern from volunteer fire and rescue groups across the Nation, including Virginia. The decision was made to prevent counties—employers—from coercing career firefighters to work overtime without overtime compensation.

While protection from coercion is a worthy and necessary element of the Fair Labor Standards Act, the administrative decision offers a presumption of guilt on the part of law abiding counties. In addition, it precludes men and women who wish to volunteer their services within their own community from doing so, if they reside in the same community as they are employed. Finally, it represents yet another unfunded Federal mandate and an intrusion on the rights of citizens to decide for themselves what services local government should provide.

Historically, volunteer fire and rescue services have played an important role in our communities. These men and women are private citizens who selflessly answer the call to duty, day and night, to protect the lives and property of others.

In many parts of Virginia today, indeed, in many parts of the Nation still, the difference between life and death in the golden hour is the initial emergency medical services provided by volunteer rescue workers. Many localities are a good 45 minutes to 1 hour away from the nearest hospital and the aid administered by volunteers is critical to the survival of victims.

The volunteer fire departments and rescue squads provide fire and emergency medical services [EMS] for 82 percent of all fire and EMS services in Virginia. Of the 602 fire departments in the Commonwealth of Virginia, 67 are combined career and volunteer departments and 535 are strictly volunteer departments. These statistics only begin to tell about the important role that the 20,000 volunteer firefighters in Virginia play in our daily lives.

Mr. President, the intent of my legislation is quite simply to help to preserve the spirit of voluntarism in our communities and to assist our volunteer fire and rescue workers in their mission to provide vital lifesaving and property protection services.

Many of our valiant career firefighters come from the ranks of the volunteers and received their initial training from those departments. In turn, many career firefighters have volunteered their service and expertise to the volunteer departments. I believe that my legislation will help to preserve this unique relationship.

For the benefit of my colleagues, I would briefly like to outline what my legislation would do.

Section 1 simply cites the legislation as the Volunteer Firefighter and Rescue Squad Worker Act.

Section 2 would exempt career firefighters and rescue squad workers who volunteer their off-duty services at locations, fire companies, where they are not employed during the course of normal duty hours from the Fair Labor Standards overtime provisions.

Section 3 would allow career firefighters and rescue squad workers to waive their claim to overtime compensation.

Section 4 would prohibit employers from directly or indirectly requiring firefighters or rescue squad workers to volunteer their services during any period in which they would otherwise be entitled to receive overtime compensation.

Mr. President, I urge my fellow Senators, particularly members of the Congressional Fire Caucus, to join me in support of this important measure.

By Mr. GORTON:

S. 2052. A bill entitled the Recreational Boating Safety Program Funding Improvement Act; to the Committee on Finance.

THE RECREATIONAL BOATING SAFETY PROGRAM FUNDING IMPROVEMENT ACT

• Mr. GORTON. Mr. President, I have heard from many boaters in Washington State who are alarmed that Washington State's Boater Safety Program will be drastically slashed by the administration's budget request. I am introducing legislation today to ensure that the money recreational boaters pay every time they refuel, which currently funds these important boater safety programs in the States won't be lost because of bureaucratic Federal budget rules.

As we all know, the Coast Guard has been under tight budget constraints for a number of years. This year, in what I believe is an effort to protect their overall budget, they have proposed to eliminate the States Recreational Boater Safety Program. I believe the main, if not the only real reason for this proposal, is because of bureaucratic Federal budget scoring rules. My legislation will change these rules and thus ensure that this program is funded.

Under current law, the Secretary of the Treasury transfers motorboat fuel tax receipts from the highway trust fund to the boat safety account and the sport fish restoration account of the aquatic resources—Wallop-Breaux—trust fund. The amount transferred is the equivalent of the amount of motorboat fuel taxes received, up to a maximum of $70 million per year. One-half of the money deposited is available to the Coast Guard to offset a portion of the costs of services provided by the Coast Guard for recreational boater safety, including services of the Coast Guard auxiliary. Nearly one-half of the remaining amount is authorized for grants to the States to assist them in carrying out recreational boater safety programs.

While no general revenue is involved in funding this program, budget scorekeeping makes no distinction between these State grants and funding for Coast Guard operating expenses. This scoring may have been appropriate in the 1970's when grant funds were provided from general revenues but since the 1980's the grant monies have been provided from Federal gasoline excise tax receipts attributable to motorboat fuel use. This is a true case of user pays/user benefits. The Coast Guard does not use the money; its only role is to pass the money along to the States to benefit the boaters who paid the taxes in the first place.

On a national level, States may lose approximately $32 million if this budget problem is not addressed. The Coast guard estimates that Washington State will lose over $450,000 in the coming year.

In 1992, 816 people lost their lives in recreational boating accidents. My legislation will ensure that States will be able to count on the money needed to fund their safety programs this and every year. These programs include law enforcement and education programs to focus on the dangers of boating under the influence of alcohol or drugs, programs to emphasize the need to equip and use personal flotation devices and other safety devices on-board a boat, rules of the waterways, courtesy, and so forth. We know that boating safety programs work. Since these programs were first established, the number of boats has increased but the number of fatalities has decreased. We need to act to ensure that important boating safety programs are not lost due to arcane budget practices. I hope the Senate will expeditiously consider and enact my legislation.

I ask unanimous consent that a copy of my legislation along with a section-by-section analysis be included in the RECORD.

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

S. 2052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. TRANSFER OF MOTORBOAT FUEL TAXES FROM HIGHWAY TRUST FUND.

(a) AUTHORIZATION OF TRANSFERS.—Section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)) is amended—

(1) by striking subparagraph (A) of section 9503(c)(4);

(2) by redesignating subparagraph (B) as subparagraph (A) and amending it to read as follows:

"(A) $1,000,000 per year transferred to land and water conservation fund.—

"(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1993, and before October 1, 1997.

"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000.";

and

(3) by striking "or (B)" in clause (ii) of subparagraph (B) (as so redesignated); and

(4) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) TECHNICAL AMENDMENT.—Section 9504(d) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(d)) is amended by striking "Boat Safety Account and".

(c) EFFECTIVE DATE.—This amendment shall be effective October 1, 1993.

SEC. 2. TECHNICAL AMENDMENTS TO AQUATIC RESOURCES TRUST FUND.

(a) Section 9504(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(a)(2)) is amended by inserting after "section 9602(b)" the following: "of this title, or as provided in subsection 4(a) of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777c), as amended,".

(b) Section 9504(b)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(2)(A)) is amended by striking "(as in effect on October 1, 1988)".

(c) Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(c)) is amended to read as follows:

"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts in the Boat Safety Account shall be available for making expenditures before April 1, 1999, to carry out the purposes of section 13106 of title 46, United States Code.".

(d) EFFECTIVE DATES.—The amendment to section (a) shall be effective October 1, 1994. The amendments to sections (b) and (c) shall be effective October 1, 1993.

SEC. 3. FUNDING FOR RECREATIONAL BOATING SAFETY PROGRAMS.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c) is amended—

(1) by redesignating subsections (a), (b), (c), (d), and (e) in order, as subsections (b), (c), (d), (e), and (f);

(2) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) Of each annual appropriation made in accordance with the provisions of section 3 of this Act (16 U.S.C. 777b) from transfers made from the Highway Trust Fund to the Sport Fish Restoration Account for motorboat fuel taxes received on or after October 1, 1993, and before October 1, 1997, the Secretary of the Interior shall transfer to the Boat Safety Account of the Aquatic Resources Trust Fund an amount equal to $77,500,000 for fiscal year 1995, $80,000,000 for each of fiscal years 1996 and 1997, and $90,000,000 for fiscal year 1998, to be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.";

(3) in subsection (b) (as so redesignated) by striking "The Secretary of the Interior" through "section 3 of this Act" and inserting the following: "Of the balance of each annual appropriation remaining after making the distribution under subsection (a), the Secretary of the Interior shall distribute 18 per centum";

(4) by amending subsection (c) (as so redesignated) to read as follows:

"(c) Of the balance of each annual appropriation remaining after making the distribution under subsections (a) and (b), an amount equal to $7,500,000 for fiscal year 1995, and $10,000,000 for each of fiscal years 1996 and 1997, shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts un-

obligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(b)(1) of title 46, United States Code.";

(5) in subsection (d) (as so redesignated) by striking "(a) and (b)" and inserting "(a), (b), and (c)"; and

(6) in subsection (e) (as so redesignated) by striking "and (c)" and inserting "(c), and (d)".

(b) EFFECTIVE DATE.—This amendment shall be effective October 1, 1994.

SEC. 4. AUTHORIZATION OF EXPENDITURES FOR RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13106 of title 46, United States Code, is amended—

(a) by striking subsection (c);

(b) by redesignating subsections (a) and (b), in order, as subsections (b) and (c);

(c) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a) Of the amount transferred for each fiscal year to the Boat Safety Account under section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), as amended, $35,000,000 is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Amounts made available by this subsection shall remain available until expended.";

(d) by amending subsection 13106(b)(1) (as so redesignated) to read as follows:

"(b)(1) Subject to paragraph (2), the Secretary may expend the balance of the amount transferred each fiscal year to the Boat Safety Account under section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), as amended, for State recreational boating safety programs as provided under the guidelines established under subsection (c) of this section. The amount shall be allocated as provided under section 13103 of this title. Amounts made available by this subsection shall remain available until expended. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditures.";

(e) by amending the catchline of section 13106 to read as follows:

"§ 13106. Spending authority for recreational boating safety programs"; and

(f) by amending the item relating to section 13106 in the table of sections at the beginning of chapter 131 of title 46, United States Code, to read as follows:

"13106. Spending authority for recreational boating safety programs.".

(g) EFFECTIVE DATE.—This amendment shall be effective October 1, 1994.

SECTION-BY-SECTION ANALYSIS

SECTION 1. TRANSFERS OF MOTORBOAT FUEL TAXES FROM HIGHWAY TRUST FUND

Subsection (a) eliminates transfers of motorboat fuel taxes from the Highway Trust Fund into the Boat Safety Account in the Aquatic Resources Trust Fund, and provides that the first $1 million of such taxes shall be transferred into the Land and Water Conservation Fund, with the balance of such taxes to be transferred into the Sport Fish Restoration Account in the Aquatic resources Trust Fund. Under current law, the first $70 million of motorboat fuel tax receipts (subject to the limitation in 26 U.S.C. §9503(c)(4)(A)(ii)(II) is to be transferred from the Highway Trust Fund to the Boat Safety Account, with $1 million of any excess to be transferred to the Land and Water Conservation Fund and the balance to be transferred to the Sport Fish Restoration Account. Subsection (b) is a conforming technical amendment to the cross-reference in 26 U.S.C. §9504(d). Subsection (c) establishes the effective date for this section.

SECTION 2. TECHNICAL AMENDMENTS TO AQUATIC RESOURCES TRUST FUND

Subsections (a), (b), and (c) are conforming and/or technical amendments to 26 U.S.C. §9504. Subsection (c) deletes the words "as provided by appropriations Acts." This language is deleted since, by the amendments of this title, amounts to be expended from the Boat Safety Account are appropriated through the permanent-indefinite appropriation of the Sport Fish Restoration Account. Subsection (d) establishes effective dates for the amendments in subsections (a), (b), and (c).

SECTION 3. FUNDING FOR RECREATIONAL BOATING SAFETY PROGRAMS

Subsection (a)(1) redesignates subsections (a), (b), (c), (d), and (e) of 16 U.S.C. §777c as subsections (b), (c), (d), (e), and (f), respectively. Subsection (a)(2) amends 16 U.S.C. §777c to insert a new subsection (a) providing that the amount of trust fund receipts authorized for recreational boating safety program for fiscal years 1995 through 1998 is to be transferred each year from the Sport Fish Restoration Account to the Boat Safety Account of the Aquatic Resources Trust Fund. The amounts authorized to be transferred to the Boat Safety Account are $77.5 million for FY95, $80 million each for FY96 and FY97, and $90 million for FY98. These amounts include the $70 million currently authorized each year for transfer from the Highway Trust Fund to the Boat Safety Account and the additional funds ($7.5 million for FY95, $10 million each for FY96 and FY97, and $20 million for FY98) authorized for transfer by the Secretary of the Interior to the Secretary of Transportation as a result of the Clean Vessel Act of 1992. The provision specifies that the funds transferred to the Boat Safety Account will be comprised of motorboat fuel taxes that have been transferred from the Highway Trust Fund.

The amendment expands on the precedent established by the Clean Vessel Act of 1992 by providing that all amounts authorized for the recreational boating safety programs funded through the Boat Safety Account will be appropriated through the Sport Fish Restoration Account under its permanent-indefinite appropriation dating from 1951.

Subsections (a)(3) through (a)(6) are conforming technical amendments to existing provisions of 16 U.S.C. §777c. Subsection (b) establishes an effective date of October 1, 1994.

SECTION 4. AUTHORIZATION OF EXPENDITURES FOR RECREATIONAL BOATING SAFETY PROGRAMS

This section makes conforming amendments to 46 U.S.C. §13106 to apportion the amounts transferred to the Boat Safety Account between the Coast Guard and the States in the same manner as they are authorized under current law in 46 U.S.C. 13106 and 16 U.S.C. §777.

Subsection (a) deletes the current 46 U.S.C. §13106(c). Subsection (b) redesignates subsections (a) and (b) as subsection (b) and (c), respectively. Subsection (c) inserts a new subsection (a) that amends the current provisions in 46 U.S.C. §13106(c). Subsection (d) makes conforming amendments to subsection 13106(b)(1) (current subsection 13106(a)(1)). Subsection (e) establishes an effective date of October 1, 1994.●

By Mr. BRADLEY:

S. 2053. A bill to prevent handgun violence and illegal commerce in firearms; to the Committee on the Judiciary.

HANDGUN CONTROL AND VIOLENCE PREVENTION ACT OF 1994

● Mr. BRADLEY. Mr. President, handgun violence is redefining the American way of life. We must own up to this reality and bring desperately needed rationality to our gun laws. This is why I rise today to introduce the Handgun Control and Violence Prevention Act of 1994. This legislation is one more important step in ensuring that the madness of gun violence in this country will be brought to an end.

Every year, more than 24,000 Americans—65 a day—are killed with handguns, in homicides, by committing suicide, and by unintentional injuries. Handguns account for only one-third of all firearms, but are responsible for two-thirds of all firearm-related deaths. Handguns are used in about 80 percent of all firearm murders. Ninety-five percent of the people injured by a handgun each year require emergency care or hospitalization. Of these, 68 percent require overnight care and 32 percent require a hospital stay of 8 days or more. In 1991, the United States led the developed world with 14,373 gun murders, as compared to 186 gun murders in Canada, 76 in Australia, 60 in England, and 74 in Japan. One difference between the United States and the other countries cited is that the other countries all have much stricter gun control laws.

Some will argue that these grim statistics are the result of weak law enforcement, light sentencing, legitimate fear, and the waning of family values. Others will argue that they are the result of joblessness, poverty, and long-term neglect of our most violent neighborhoods. I have no doubt that the growing rate of violent activity has been aggravated in part by all these factors. But accepting many of these causes of handgun violence does not erase the reality that crime and deviant behavior have become much more of a burden on our society because of the explosive growth in handguns. Disputes that were settled with fists and knives 10 years ago are now being settled with guns. The number, availability and destructive ability of handguns has contributed significantly to this tragedy.

Every single handgun used in a crime starts out as a legal gun. The black market in illegal handguns is enormous and deadly. If we can crack down on illegal sale and use, we can help drive guns off our streets, out of our schools, and from our communities.

The purpose of this bill is to make it at least as difficult to use a handgun as

it is to drive a car. When the evidence on the danger of handguns is made clear to us on a daily basis, it is irresponsible to allow an instrument which can cause so much physical and psychological damage to be made available to people on such a liberal basis.

This bill makes it illegal to purchase a handgun without a valid, nationally uniform, State-issued handgun license. The license would be similar to a driver's license and consist of an identification card with a photograph. Only new purchases of handguns would require a license. Those who currently possess handguns would not have to acquire a license unless they wanted to purchase more handguns.

To stop the transfer of handguns from straw-man purchasers to criminals and others intending to commit crimes, this legislation requires that all handgun transfers be registered with local officials. If the person transferring the weapon does not register the transfer, he or she will be in violation of Federal law.

To curb interstate gun running, this bill limits the purchase of a handgun by any one person to one gun a month. When this provision goes into effect, maybe Interstate 95 will lose its nickname, the "Iron Road", as it becomes less easy to run guns from States with little gun control to States, like New Jersey, that already enjoy some of the protections in this bill.

This bill also includes tough standards for Federal firearms dealers licenses. Federally licensed firearms dealers will have to pass strict background checks and meet all State and local regulations. This will help guard against rogue gun dealers, who illegally sell thousands of firearms to drug gangs and violent criminals. The legislation also imposes stiff penalties on gun thieves.

I am particularly pleased, Mr. President, that this bill incorporates my legislation, S. 1798, which increases the licensing fees for federally licensed firearm dealers. In addition to existing requirements, federally licensed firearm dealers would have to prove that they are in compliance with State and local laws, pass background checks, and pay $3,000 for a 3-year license. Today, there are more gun dealers than gas stations and grocery stores. This is outrageous, and I hope these provisions will change that situation.

In closing, Mr. President, we must continue our fight to end the death and destruction of our children and our families, which is too easily becoming a fact of life in our cities and towns. I urge support for this responsible handgun licensing and registration legislation.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2053

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 "Handgun Control and Violence Prevention Act of 1994".

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress finds and declares that—

(1) crimes committed with firearms threaten the peace and domestic tranquility of the United States and threaten the security and general welfare of the Nation and its people;

(2) crimes committed with firearms, especially those committed with handguns, have imposed a substantial burden on interstate commerce;

(3) firearms are easily transported across State boundaries and, as a result, individual State action to regulate firearms is made less than effective by lax regulation by other States; and

(4) accordingly, it is necessary to establish uniform national laws governing all aspects of the firearms industry, requiring handgun licensing and registration, expanding the categories of persons prohibited from possessing firearms, limiting Federal firearms licensees to bona fide importers, manufacturers, and dealers, and prohibiting the sale of semiautomatic assault weapons and other dangerous weapons.

SEC. 3. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Findings and declarations.
Sec. 3. Table of contents.

TITLE I—NATIONAL HANDGUN CONTROLS

Sec. 101. State license required to receive a handgun.
Sec. 102. Prohibition of multiple handgun transfers.
Sec. 103. Prohibition of engaging in the business of dealing in handguns without specific authorization; requirement that authorization be provided if applicant demonstrates significant unmet economic demand.

TITLE II—TRACING OF GUNS USED IN CRIMES

Sec. 201. Dealer assistance with tracing of firearms.
Sec. 202. Computerization of records.
Sec. 203. Interstate transportation of firearms.
Sec. 204. Gun running.
Sec. 205. Handgun barrel registration.
Sec. 206. National Firearms Tracing Center.

TITLE III—DEALER RESPONSIBILITY

Sec. 301. Compliance with State and local firearms licensing laws as condition to issuance of Federal firearms license.
Sec. 302. Background investigation of licensees.
Sec. 303. Increased license fees for dealers.
Sec. 304. Increased penalties for making knowingly false statements in connection with firearms.
Sec. 305. Dealer inspections.
Sec. 306. Gun shows.
Sec. 307. Acquisition and disposition records of dealers suspected of serving as sources of illegal firearms.
Sec. 308. Dealer responsibility for sales to felons or minors.
Sec. 309. Interstate shipment of firearms.

TITLE IV—THEFT OF FIREARMS

Sec. 401. Dealer reporting of firearm thefts.
Sec. 402. Theft of firearms or explosives.
Sec. 403. Theft of firearms or explosives from licensee.
Sec. 404. Security of licensed firearms dealers.
Sec. 405. Prohibition of transactions involving stolen firearms that have moved in interstate or foreign commerce.

TITLE V—ARMED FELONS

Sec. 501. Denial of administrative relief from certain firearms prohibitions; inadmissibility of additional evidence in judicial review of denials of such administrative relief for other persons.
Sec. 502. Clarification of definition of conviction.
Sec. 503. Enhanced penalty for use of a semiautomatic firearm during a crime of violence or a drug trafficking crime.
Sec. 504. Violation of firearms laws in aid of drug trafficking.
Sec. 505. Mandatory penalties for firearms possession by violent felons and serious drug offenders.

TITLE VI—VIOLENT MISDEMEANANTS

Sec. 601. Prohibition of disposal of firearms or ammunition to, or receipt of firearms or ammunition by, persons convicted of a violent crime or subject to a protection order.

TITLE VII—AMMUNITION

Sec. 701. Federal license to deal in ammunition.
Sec. 702. Regulation of the manufacture, importation, and sale of certain particularly dangerous bullets.

TITLE I—NATIONAL HANDGUN CONTROLS

SEC. 101. STATE LICENSE REQUIRED TO RECEIVE A HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(v)(1) It shall be unlawful for any person to sell, deliver, or otherwise transfer a handgun to an individual who is not licensed under section 923 unless—

"(A) the transferor (or a licensed dealer, if State law so directs or allows) has verified that the transferee possesses a valid State handgun license by—

"(i) examining the State handgun license;

"(ii) examining, in addition to the State handgun license, a valid identification document (as defined in section 1028) containing a photograph of the transferee; and

"(iii) contacting the chief law enforcement officer of the State that issued the State handgun license to confirm that the State handgun license has not been revoked; and

"(B) the transferor (or licensed dealer) has provided to the chief law enforcement officer of the State in which the transfer is to take place a completed State handgun registration form for the handgun to be transferred.

"(2) It shall be unlawful for any person to sell, deliver, or otherwise transfer handgun ammunition to an individual who is not licensed under section 923 unless the transferor (or licensed dealer, if State law so directs or allows) has verified that the transferee possesses a valid State handgun license by—

"(A) examining the State handgun license; and

"(B) examining, in addition to the State handgun license, a valid identification document (as defined in section 1028) containing a photograph of the transferee.

"(3) It shall be unlawful for any individual who is not licensed under section 923 to receive a handgun or handgun ammunition unless the individual possesses a valid State handgun license.

"(4) As used in this subsection, the term 'chief law enforcement officer of the State' means the chief, or equivalent officer, of the State police force, or the designee of that officer.

"(5) As used in this subsection, the term 'State handgun license' means a license issued under a State law that, at a minimum, meets the following requirements:

"(A) The State law provides that—

"(i) the chief law enforcement officer of the State shall issue State handgun licenses, which shall meet such requirements as to form, appearance, and security against forgery as are prescribed by the Secretary in regulations, in accordance with such procedures as are prescribed by the Secretary in regulations;

"(ii) the State handgun license issued to a licensee shall contain—

"(I) the name, address, date of birth, physical description, and a photograph of the licensee; and

"(II) a unique license number; and

"(iii) a State handgun license shall be valid for a period of not more than 2 years from the date of issue, unless revoked.

"(B) The State law provides that a State handgun license may not be issued unless the chief law enforcement officer of the State determines that the applicant—

"(i) is at least 21 years of age;

"(ii) is a resident of the State, by examining, at a minimum, in addition to a valid identification document (as defined in section 1028), documentation such as a utility bill or lease agreement;

"(iii) is not prohibited from possessing or receiving a handgun under Federal, State, or local law, based upon name- and fingerprint-based research in all available Federal, State, and local recordkeeping systems, including the national instant criminal background check system established by the Attorney General pursuant to section 103 of the Brady Handgun Violence Prevention Act; and

"(iv) has been issued a State handgun safety certificate.

"(D) The State law may authorize the chief law enforcement officer of the State to charge a fee for the issuance of a State handgun license.

"(E) The State law provides that, if the chief law enforcement officer of the State determines that an individual is ineligible to receive a State handgun license and the individual in writing requests the officer to provide the reasons for that determination, the officer shall provide the reasons to the individual in writing within 20 business days after receipt of the request.

"(F)(i) The State law provides for the revocation of a State handgun license issued by the chief law enforcement officer of the State if the chief law enforcement officer determines that the licensee no longer satisfies 1 or more of the conditions set forth in subparagraph (B).

"(ii) The State law provides that, within 10 days after a person possessing a State handgun license that has been revoked receives notice of the revocation, the person shall return the license to the chief law enforcement officer who issued the license.

"(G)(i) The State law provides that, within 24 hours after a State handgun licensee discovers that a handgun has been stolen from or lost by the licensee, the licensee shall report the theft or loss to—

"(I) the Secretary;

"(II) the chief law enforcement officer of the State; and

"(III) appropriate local authorities.

"(ii) The State law shall provide that failure to make the reports described in clause (i) shall be punishable by a civil penalty of not less than $1,000.

"(6) As used in this subsection, the term 'State handgun registration form' means a handgun registration form prescribed under a State law that, at a minimum, meets the following requirements:

"(A) The State law provides that a handgun registration form shall not be considered completed by an individual with respect to a handgun, unless the form contains, at a minimum—

"(i) information identifying the individual, including the name, address, date of birth, and number on the State handgun license issued to the individual; and

"(ii) information identifying the handgun, including the make, model, caliber, and serial number of the handgun.

"(B) The State law provides that the chief law enforcement officer of the State shall furnish information from completed handgun registration forms to Federal, State, and local law enforcement authorities upon request.

"(C) The State law may authorize the chief law enforcement officer of the State to charge a fee for the registration of a handgun.

"(7) As used in this subsection, the term 'State handgun safety certificate' means a certificate issued under a State law that, at a minimum, meets the following requirements:

"(A) The State law provides that the chief law enforcement officer of the State shall issue State handgun safety certificates.

"(B) The State law provides that a State handgun safety certificate is not to be issued to an applicant, unless the chief law enforcement officer of the State determines that the applicant—

"(i) is a resident of the State, by examining, at a minimum, in addition to a valid identification document (as defined in section 1028), documentation such as a utility bill or lease agreement;

"(ii) has completed a course of not less than 2 hours of instruction in handgun safety, that was taught by law enforcement officers and designed by the chief law enforcement officer; and

"(iii) has passed an examination, designed by the chief law enforcement officer, testing the applicant's knowledge of handgun safety.

"(C) The State law may authorize the chief law enforcement officer of the State to charge a fee for the handgun safety course and examination described in subparagraph (B).".

(b) DEFINITION OF HANDGUN AMMUNITION.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(30) The term 'handgun ammunition' means—

"(A) a centerfire cartridge or cartridge case less than 1.3 inches in length; or

"(B) a primer, bullet, or propellent powder designed specifically for use in a handgun.".

(c) REGULATIONS.—Section 926 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary shall, for purposes of section 922(v), prescribe regulations—

"(1) governing the form and appearance of State handgun licenses;

"(2) establishing minimum standards that such licenses must meet to be secure against forgery; and

"(3) establishing minimum standards that States must meet in issuing such licenses in order to prevent fraud or theft of such licenses.".

(d) PENALTIES FOR VIOLATIONS OF SECTION 922 (Q), (R), AND (V) OF TITLE 18.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "or (q)" and inserting "(r), or (v)".

(e) TECHNICAL CORRECTION TO BRADY ACT.—Section 922(t)(1)(B)(ii) of title 18, United States Code, is amended by inserting "or State law" after "section".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date that is 180 days after the date of enactment of this Act.

(g) FUNDING.—

(1) GRANTS FOR ESTABLISHING SYSTEMS OF LICENSING AND REGISTRATION.—The Attorney General shall, subject to the availability of appropriations, make a grant to each State (as defined in section 921(a)(2) of title 18, United States Code) to be used for the initial startup costs associated with establishing a system of licensing and registration consistent with the requirements of section 922(v) of title 18, United States Code.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under paragraph (1) a total of $200,000,000 for fiscal year 1995 and all fiscal years thereafter.

SEC. 102. PROHIBITION OF MULTIPLE HANDGUN TRANSFERS.

Section 922 of title 18, United States Code, as amended by section 101(a), is amended by adding at the end the following new subsection:

"(w)(1) It shall be unlawful for any licensed dealer—

"(A) during any 30-day period, to sell 2 or more handguns to an individual who is not licensed under section 923; or

"(B) to sell a handgun to an individual who is not licensed under section 923 and who purchased a handgun during the 30-day period ending on the date of the sale.

"(2) It shall be unlawful for any individual who is not licensed under section 923 to purchase 2 or more handguns during any 30-day period.

"(3) Paragraph (1) shall not apply to an exchange (with or without consideration) of a handgun for a handgun.".

SEC. 103. PROHIBITION OF ENGAGING IN THE BUSINESS OF DEALING IN HANDGUNS WITHOUT SPECIFIC AUTHORIZATION; REQUIREMENT THAT AUTHORIZATION BE PROVIDED IF APPLICANT DEMONSTRATES SIGNIFICANT UNMET ECONOMIC DEMAND.

(a) PROHIBITION AGAINST ENGAGING IN THE BUSINESS OF DEALING IN HANDGUNS WITHOUT SPECIFIC AUTHORIZATION.—Section 922(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) to engage in the business of dealing in handguns, or in the course of such business, to ship, transport, or receive any handgun in interstate or foreign commerce, unless the person is specifically authorized to do so under section 923(d)(2)(A); or".

(b) REQUIREMENT THAT AUTHORIZATION BE PROVIDED IF APPLICANT DEMONSTRATES THAT IT IS IN THE PUBLIC INTEREST.—Section 923(d) of title 18, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The Secretary shall authorize a licensed dealer (or a person whose application for a license to engage in the business of dealing in firearms is required to be approved by the Secretary) to engage in the business of dealing in handguns if the licensed dealer (or the applicant) demonstrates to the Secretary, in accordance with regulations that the Secretary shall prescribe, that there is significant unmet lawful demand for handguns in the market area (as defined by the Secretary) served by the licensed dealer (or to be served by the applicant).

"(B) For purposes of paragraph (3) of this subsection and subsections (e) and (f), a request for authority to engage in the business of dealing in handguns shall be considered to be an application for a license under this section, and the provision of such authority shall be considered to be the issuance of such a license.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date that is 1 year after the date of enactment of this Act.

(2) 2-YEAR GRANDFATHERING OF LICENSED DEALERS.—During the 2-year period that begins with the effective date specified in paragraph (1), the amendments made by this section shall not apply to any person who, on the effective date, is a licensed dealer (as defined in section 921(a)(11) of title 18, United States Code).

TITLE II—TRACING OF GUNS USED IN CRIMES

SEC. 201. DEALER ASSISTANCE WITH TRACING OF FIREARMS.

(a) PROVISION OF RECORD INFORMATION.—Section 923(g) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6) Each licensee shall, at such times and under such conditions as the Secretary shall prescribe by regulation, provide all record information required to be kept by this chapter, or such lesser information as the Secretary may specify, as may be required for determining the disposition of a firearm in the course of a law enforcement investigation.".

(b) NO CRIMINAL PENALTY.—Section 924(a)(1)(D) of title 18, United States Code, is amended by inserting "except section 923(g)(6)" after "chapter".

SEC. 202. COMPUTERIZATION OF RECORDS.

Section 926 of title 18, United States Code, as amended by section 101(c), is amended—

(1) in subsection (a) by striking the second sentence; and

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

"(e) The Director of the Bureau of Alcohol, Tobacco, and Firearms shall centralize all records of receipts and disposition of firearms obtained by the Bureau and maintain such records in whatever manner will enable their most efficient use in law enforcement investigations.".

SEC. 203. INTERSTATE TRANSPORTATION OF FIREARMS.

Section 922(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) for any person not licensed under section 923 to transport a firearm from 1 State into another State; but

"(B)(i) subparagraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than the person's State of residence from transporting the firearm into or receiving the firearm in the person's State of residence, if it is lawful for the person to possess the firearm in the person's State of residence; and

"(ii) subparagraph (A) shall not apply to—

"(I) the transportation or receipt of any firearm obtained in conformity with subsection (b)(3);

"(II) the transportation of any firearm acquired in any State before the effective date of this chapter;

"(III) the transportation of any firearm in accordance with section 926A of this title; and

"(IV) the transportation of any firearm, under contract or agreement with a person licensed under section 923, by a person who ships or transports goods in the ordinary course of business;".

SEC. 204. GUN RUNNING.

(a) PROHIBITIONS.—Section 922 of title 18, United States Code, as amended by section 102, is amended by adding at the end the following new subsection:

"(x) It shall be unlawful for a person not licensed under section 923 to receive a firearm with the intent to transfer the firearm for profit.".

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B), a person who violates section 922(x) shall be fined under this title, imprisoned not less than 6 months and not more than 3 years, or both.

"(B) A person who violates section 922(x) with respect to 5 or more firearms during a 30-day period shall be fined under this title, imprisoned not less than 3 years, or both.".

SEC. 205. HANDGUN BARREL REGISTRATION.

Section 923(i) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) Each licensed manufacturer shall, in accordance with regulations prescribed by the Secretary—

"(A) maintain records of the ballistics of handgun barrels made by the licensed manufacturer and of the serial numbers of such barrels; and

"(B) make such records available to the Secretary.".

SEC. 206. NATIONAL FIREARMS TRACING CENTER.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish in the Bureau of Alcohol, Tobacco, and Firearms a National Firearms Tracing Center, which shall be operated for the purpose of tracing the chain of possession of firearms and ammunition used in crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the establishment and operation of the National Firearms Tracing Center there are authorized to be appropriated to the Secretary of the Treasury $20,000,000 for each of fiscal years 1994, 1995, and 1996.

TITLE III—DEALER RESPONSIBILITY

SEC. 301. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS AS CONDITION TO ISSUANCE OF FEDERAL FIREARMS LICENSE.

Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

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

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business;

"(ii) the business to be conducted pursuant to the license is not prohibited by the law of the State or locality in which the business premises is located; and

"(iii) the application includes a written statement that—

"(I) is signed by the chief of police of the locality, or the sheriff of the county, in which the applicant conducts or intends to conduct such business, the head of the State police of such State, or any official designated by the Secretary; and

"(II) certifies that the information available to the signer of the statement does not indicate that the applicant is ineligible to obtain such a license under the law of such State and locality.".

SEC. 302. BACKGROUND INVESTIGATION OF LICENSEES.

(a) IN GENERAL.—Section 923(d)(1)(B) of title 18, United States Code, is amended—

(1) by inserting "after a thorough investigation of" before "the applicant"; and

(2) by striking "association)" and inserting "association), which investigation shall include checking the applicant's fingerprints against all appropriate compilations of criminal records, the Secretary determines that the applicant".

(b) INSPECTION OF APPLICANT'S PREMISES.—Section 923(d)(1) of title 18, United States Code, as amended by section 301, is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

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

"(G) the Secretary has conducted an inspection of the place at which the applicant is to conduct business pursuant to the license.".

(c) BUSINESS PREMISES REQUIRED OF APPLICANT.—Section 923(d)(1)(E) of title 18, United States Code, is amended by inserting "business" after "(i)".

(d) EXTENSION OF PERIOD FOR APPROVING OR DENYING APPLICATION.—Section 923(d)(3) of title 18, United States Code, as redesignated by section 103(b), is amended by striking "forty-five-day" and inserting "180-day".

SEC. 303. INCREASED LICENSE FEES FOR DEALERS.

Section 923(a)(3) of title 18, United States Code, is amended to read as follows:

"(3) If the applicant—

"(A) is a dealer in destructive devices or ammunition for destructive devices, a fee of $2,000 per year; or

"(B) is a dealer not described in subparagraph (A), a fee of $3,000 for 3 years.".

SEC. 304. INCREASED PENALTIES FOR MAKING KNOWINGLY FALSE STATEMENTS IN CONNECTION WITH FIREARMS.

(a) IN ACQUIRING A FIREARM FROM A LICENSED DEALER.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

(b) IN RECORDKEEPING.—Section 924(a)(3) of title 18, United States Code, is amended by striking "fined not more than $1,000, impris-

oned not more than one year" and inserting "fined under this title, imprisoned not more than 10 years".

SEC. 305. DEALER INSPECTIONS.

Section 923(g)(1)(B) of title 18, United States Code, is amended by striking all after "warrant" and inserting "as necessary to ensure compliance with this chapter, to further a criminal investigation, or to determine the disposition of 1 or more particular firearms.".

SEC. 306. GUN SHOWS.

(a) PROHIBITION OF CERTAIN HANDGUN TRANSFERS AT GUN SHOWS.—Section 922(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; or"; and

(3) by inserting after paragraph (5) the following:

"(6) any handgun to any person who is not a licensed importer, licensed manufacturer, or licensed dealer, at any place other than the location specified on the license of the transferor.".

(b) TECHNICAL AMENDMENT.—Section 923(j) of title 18, United States Code, is amended in the first sentence by inserting ", consistent with section 922(b)(6)," before "temporarily".

SEC. 307. ACQUISITION AND DISPOSITION RECORDS OF DEALERS SUSPECTED OF SERVING AS SOURCES OF ILLEGAL FIREARMS.

Section 923(g)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(E) If the Secretary, during a 1-year period, has identified a licensed dealer as the source of 3 or more firearms that have been recovered by law enforcement officials in criminal investigations, or if the Secretary has reason to believe that a licensed dealer is a source of firearms used in crimes, the Secretary may require the dealer to produce any or all records maintained by the dealer of acquisition and disposition of firearms, and may continue to impose that requirement until the Secretary determines that the dealer is not a source of firearms used in crimes.".

SEC. 308. DEALER RESPONSIBILITY FOR SALES TO FELONS OR MINORS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 922 the following new section:

"§ 922A. Tort liability of licensed dealers

"(a)(1) Any person suffering physical injury arising from a crime of violence (as defined in section 924(c)(3)) in which a qualified firearm is used may bring an action in any United States district court against any qualified licensed dealer for damages and such other relief as the court deems appropriate.

"(2) As used in paragraph (1), the term 'qualified firearm' means a firearm that—

"(A) has been transferred by a licensed dealer to a person who—

"(i) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year; or

"(ii) has not attained the age of 18 years; and

"(B) is subsequently used by any person in a crime of violence (as defined in section 924(c)(3)).

"(3) As used in paragraph (1), the term 'qualified licensed dealer' means, with respect to a firearm, a licensed dealer who transfers the firearm to a person, knowing or having reasonable cause to believe that the person is prohibited by Federal or State law from receiving the firearm.

"(b)(1) The defendant in an action brought under subsection (a) shall be held liable in tort, without regard to fault or proof of defect, for all direct and consequential damages arising from the crime of violence referred to therein, except as provided in paragraph (2). The court, in its discretion, may award punitive damages.

"(2) There shall be no liability under subsection (a) if it is established by a preponderance of the evidence that the plaintiff suffered the physical injury while committing the crime of violence referred to therein.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 922 the following new item:

"Sec. 922A. Tort liability of licensed dealers.".

SEC. 309. INTERSTATE SHIPMENT OF FIREARMS.

Section 922(e) of title 18, United States Code, is amended—

(1) in the first sentence by striking "It shall be" and inserting the following:

"(2) It shall be";

(2) in the second sentence by striking "No common or contract carrier" and inserting the following:

"(3) No common or contract carrier";

(3) by inserting "(1) Any common or contract carrier that undertakes to transport or deliver firearms in interstate or foreign commerce shall, not less frequently than monthly, obtain from the Secretary a list of licensed dealers. The Secretary shall provide to any common or contract carrier, upon request and without charge, a list of licensed dealers and their license numbers." after "(e)";

(4) in paragraph (2), as designated by paragraph (1)—

(A) by striking ", to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors,"; and

(B) by striking "ammunition" the first place it appears and all that follows through "passenger" and inserting "ammunition—

"(A) without providing written notice to the carrier that the firearm or ammunition is being transported or shipped; and

"(B) if the intended recipient of the package or container is a licensed dealer, providing written notice of the dealer's license number,

except that any passenger"; and

(5) by adding at the end the following new paragraph:

"(4) A common or contract carrier shall be considered to have cause to believe that a shipment of firearms would violate this chapter if it is alleged to the carrier that the intended recipient of the shipment is a licensed dealer and the carrier fails to verify that the intended recipient is a licensed dealer.".

TITLE IV—THEFT OF FIREARMS

SEC. 401. DEALER REPORTING OF FIREARM THEFTS.

Section 923(g) of title 18, United States Code, as amended by section 201(a), is amended by adding at the end the following new paragraph:

"(7) Each licensee shall report to the Secretary, and to the chief law enforcement officer (as defined in section 922(s)(8)) of the locality in which the premises specified on the license is located, any theft of firearms from the licensee, not later than the close of business on the first business day of the licensee after the day on which the licensee discovers the theft.".

SEC. 402. THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) A person who steals any firearm that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be fined under this title, imprisoned not less than 2 nor more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(k) A person who steals any explosive materials that are moving as, or are a part of, or that have moved in, interstate or foreign commerce shall be fined under this title, imprisoned not less than 2 nor more than 10 years, or both.".

SEC. 403. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 402(a), is amended by adding at the end the following new subsection:

"(k) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 402(b), is amended by adding at the end the following new subsection:

"(l) A person who steals explosive materials from a licensed importer, licensed manufacturer, licensed dealer, or any permittee shall be fined under this title, imprisoned not more than 10 years, or both.".

SEC. 404. SECURITY OF LICENSED FIREARMS DEALERS.

(a) REQUIREMENT.—Section 923 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(l) A licensed dealer shall provide for security against theft of firearms from the dealer's business premises, in accordance with regulations prescribed by the Secretary.".

(b) DENIAL OF DEALER'S LICENSE.—Section 923(d)(1)(F) of title 18, United States Code, as added by section 301(3), and amended by section 302(b)(2), of this Act, is amended—

(1) by striking "and" at the end of clause (ii);

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

"(iv) the applicant has provided for security against theft of firearms from the place at which business is to be conducted pursuant to the license, in accordance with regulations prescribed under subsection (l); and".

SEC. 405. PROHIBITION OF TRANSACTIONS INVOLVING STOLEN FIREARMS THAT HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, that is moving as, that is a part of, that constitutes, or that has been shipped or transported in, interstate or foreign commerce (either before or after it was stolen), knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

TITLE V—ARMED FELONS

SEC. 501. DENIAL OF ADMINISTRATIVE RELIEF FROM CERTAIN FIREARMS PROHIBITIONS; INADMISSIBILITY OF ADDITIONAL EVIDENCE IN JUDICIAL REVIEW OF DENIALS OF SUCH ADMINISTRATIVE RELIEF FOR OTHER PERSONS.

(a) IN GENERAL.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "A person";

(B) by inserting "(other than an individual)" before "who is prohibited"; and

(C) by striking "his" and inserting "the Secretary's";

(2) by striking the second and third sentences;

(3) in the fourth sentence—

(A) by striking "A licensed importer" and inserting the following:

"(2) A licensed importer";

(B) by inserting "person (other than an individual) who is a" before "licensed importer"; and

(C) by striking "his" and inserting "the person's"; and

(4) by amending the fifth sentence to read as follows:

"(3) When the Secretary grants relief to a person under this section, the Secretary shall promptly publish in the Federal Register a notice of the action, which shall include—

"(A) the name of the person;

"(B) the disability with respect to which the relief is granted, and, if the disability was imposed by reason of a criminal conviction of the person, the crime for which, and the court in which, the person was convicted; and

"(C) the reasons for the action.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) applications for administrative relief, and actions for judicial review, that are pending on or after the date of enactment of this Act; and

(2) applications for administrative relief filed, and actions for judicial review brought, on or after the date of enactment of this Act.

SEC. 502. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting "(A)" after "(20)"; and

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) in the second sentence by striking "What" and inserting the following:

"(B) What"; and

(3) by striking the third sentence and inserting the following:

"(C) A State conviction that has been expunged or set aside, or for which a person has been pardoned or has had civil rights restored, shall not be considered to be a conviction for purposes of this chapter if—

"(i) the expungement, setting aside, pardon, or restoration of civil rights applies to a named person and expressly authorizes the person to ship, transport, receive, and possess firearms; and

"(ii) the State authority granting the expungement, setting aside, pardon, or restoration of civil rights has expressly determined that the circumstances regarding the conviction, and the person's record and reputation, are such that—

"(I) the applicant will not be likely to act in a manner that is dangerous to public safety; and

"(II) the granting of the relief would not be contrary to the public interest.

"(D) Subparagraph (C) shall not apply to a conviction for a violent felony (as defined in section 924(e)(2)(B)) or a serious drug offense (as defined in section 924(e)(2)(A)).".

SEC. 503. ENHANCED PENALTY FOR USE OF A SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR A DRUG TRAFFICKING CRIME.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by striking "and if the firearm is a short-barreled rifle, short-barreled shotgun" and inserting "if the firearm is a semiautomatic firearm, a short-barreled rifle, or a short-barreled shotgun,".

(b) SEMIAUTOMATIC FIREARM.—Section 921(a) of title 18, United States Code, as amended by section 101(b), is amended by adding at the end the following new paragraph:

"(31) The term 'semiautomatic firearm' means a repeating firearm that—

"(A) utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round; and

"(B) requires a separate pull of the trigger to fire each cartridge.".

SEC. 504. VIOLATION OF FIREARMS LAWS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 403(a), is amended by adding at the end the following:

"(l)(1) A person who, with the intent to engage in or to promote conduct described in paragraph (2), violates any provision of this chapter or attempts to do so shall be imprisoned not more than 10 years, fined under this title, or both.

"(2) Conduct is described in this paragraph if it is conduct that—

"(A) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(B) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(C) constitutes a crime of violence (as defined in subsection (c)(3)).".

SEC. 505. MANDATORY PENALTIES FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) 1 PRIOR CONVICTION.—Section 924(a)(2) of title 18, United States Code, is amended by inserting ", and if the violation is of section 922(g)(1) by a person who has a previous conviction for a violent felony or a serious drug offense (as defined in subsection (e)(2) (A) and (B)), a sentence imposed under this paragraph shall include a term of imprisonment of not less than 5 years" before the period.

(b) 2 PRIOR CONVICTIONS.—Section 924 of title 18, United States Code, as amended by section 504, is amended by adding at the end the following new subsection:

"(m)(1) Notwithstanding subsection (a)(2), a person who violates section 922(g) and has 2 previous convictions by any court referred to in section 922(g)(1) for a violent felony (as defined in subsection (e)(2)(B)) or a serious drug offense (as defined in subsection (e)(2)(A)) committed on occasions different from one another shall be fined under this title, imprisoned not less than 10 nor more than 20 years, or both.

"(2) Notwithstanding any other law, the court shall not suspend the sentence of, or grant a probationary sentence to, a person described in paragraph (1) with respect to the conviction under section 922(g).".

TITLE VI—VIOLENT MISDEMEANANTS

SEC. 601. PROHIBITION OF DISPOSAL OF FIREARMS OR AMMUNITION TO, OR RECEIPT OF FIREARMS OR AMMUNITION BY, PERSONS CONVICTED OF A VIOLENT CRIME OR SUBJECT TO A PROTECTION ORDER.

(a) PROHIBITION OF DISPOSAL.—Section 922(d) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by inserting after paragraph (7) the following new paragraphs:

"(8) has been convicted in any court of an offense that—

"(A) is punishable by imprisonment for more than 6 months; and

"(B)(i) has, as an element, the use, attempted use, or threatened use of physical force against another person; or

"(ii) by its nature, involves a substantial risk that physical force against a person described in subparagraph (A) may be used in the course of committing the offense; or

"(9) is required, pursuant to an order issued by a court in a case involving the use, attempted use, or threatened use of physical force against another person, to refrain from contact with or maintain a minimum distance from that person.".

(b) PROHIBITION OF RECEIPT.—Section 922(g) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) who has been convicted in any court of an offense that—

"(A) is punishable by imprisonment for more than 6 months; and

"(B)(i) has, as an element, the use, attempted use, or threatened use of physical force against another person; or

"(ii) by its nature, involves a substantial risk that physical force against a person described in subparagraph (A) may be used in the course of committing the offense; or

"(9) who is required, pursuant to an order issued by a court in a case involving the use, attempted use, or threatened use of physical force against another person, to refrain from contact with or maintain a minimum distance from that person,".

TITLE VII—AMMUNITION

SEC. 701. FEDERAL LICENSE TO DEAL IN AMMUNITION.

(a) DEFINITIONS.—

(1) DEALER.—Section 921(a)(11)(A) of title 18, United States Code, is amended by inserting "or ammunition" after "firearms".

(2) COLLECTOR.—Section 921(a)(13) of title 18, United States Code, is amended by inserting "or ammunition" after "firearms".

(3) ENGAGED IN THE BUSINESS.—Section 921(a)(21) of title 18, United States Code, is amended—

(A) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (D) the following new subparagraph:

"(E) as applied to a dealer in ammunition, a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of ammunition, but such term does not include a person who makes occasional sales, exchanges, or purchases of ammunition for the enhancement of a personal collection or for a

hobby, or who sells all or part of the person's personal collection of ammunition;".

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1) (as amended by section 103(a))—

(i) by amending subparagraph (A) to read as follows:

"(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce; or";

(ii) by striking "or" at the end of subparagraph (B); and

(iii) by striking subparagraph (C);

(B) in paragraphs (2), (3), and (5) by inserting "or ammunition" after "firearm" each place it appears;

(2) in subsection (b)(3)—

(A) by inserting "or ammunition" after "firearm" each place it appears; and

(B) by inserting ", or ammunition for a rifle or shotgun," after "shotgun";

(3) in subsection (c)—

(A) by inserting "or ammunition" after "firearm" the first, third, fourth, fifth, sixth, and seventh places it appears;

(B) by inserting "or any ammunition other than for a shotgun or rifle," after "rifle," the first place it appears; and

(C) by inserting "or ammunition for a shotgun or rifle," after "rifle," the second place it appears;

(4) in subsection (e) (as amended by section 309) by inserting "or ammunition" after "firearms" each place it appears; and

(5) in subsection (q)(1)—

(A) in subparagraph (A) by inserting "or ammunition" after "firearm"; and

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

"(C) Subparagraph (A) shall not apply to the possession of ammunition—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the ammunition is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) that is in a locked container;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in the officer's official capacity; or

"(vii) that is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.".

(c) LICENSING.—Section 923 of title 18, United States Code, is amended—

(1) in the first sentence of subsection (a) by striking ", or importing or manufacturing";

(2) in subsection (g)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) by inserting "and ammunition" after "firearms" the first place it appears;

(II) by striking "firearms" the second place it appears; and

(III) by striking "or any licensed importer or manufacturer of ammunition,";

(ii) in each of subparagraphs (B)(iii) and (C)(ii) by inserting "or rounds of ammunition" after "firearms"; and

(iii) in subparagraph (D)(iv), as added by section 404(b), by inserting "or rounds of ammunition" after "firearms";

(B) in paragraph (2)—

(i) by inserting "or ammunition" after "firearm"; and

(ii) by inserting "or ammunition" after "firearms";

(C) in paragraph (6), as added by section 201(a), by inserting "or ammunition" after "firearm"; and

(D) in paragraph (7), as added by section 401, by inserting "or ammunition" after "firearms";

(3) in subsection (j)—

(A) by inserting "or ammunition" after "firearms" the second place it appears; and

(B) by inserting "and ammunition" after "firearms" the third place it appears; and

(4) in subsection (l), as added by section 404(a), by inserting "or ammunition" after "firearms".

(d) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (g) by inserting "or ammunition" after "firearm";

(2) in subsection (h) by inserting "or ammunition" after "firearm" each place it appears;

(3) in subsection (j), as added by section 402(a), by inserting "or ammunition" after "firearm"; and

(4) in subsection (k), as added by section 403(a), by inserting "or ammunition" after "firearm".

(e) INTERSTATE TRANSPORTATION.—Section 926A of title 18, United States Code, is amended—

(1) in the section heading by inserting "**and ammunition**" after "**firearms**"; and

(2) in the text by inserting "or ammunition" after "firearm" in the first, second, third, and fourth places it appears.

(f) POSSESSION IN FEDERAL FACILITIES.—Section 930 of title 18, United States Code, is amended—

(1) in the section heading by inserting ", **ammunition,**" after "**firearms**";

(2) by inserting ", ammunition," after "firearm" each place it appears; and

(3) in subsection (c)(3) by inserting ", ammunition," after "firearms".

(g) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 44 of title 18, United States Code, is amended—

(1) in the item relating to section 926A by inserting "and ammunition" after "firearms"; and

(2) in the item relating to section 930 by inserting ", ammunition," after "firearms".

SEC. 702. REGULATION OF THE MANUFACTURE, IMPORTATION, AND SALE OF CERTAIN PARTICULARLY DANGEROUS BULLETS.

Section 921(a)(17) of title 18, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) The term 'armor piercing am-munition'—

"(i) means—

"(I) a projectile or projectile core that may be used in a handgun and that is constructed entirely (excluding the presence of traces of other substances) from 1 or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium;

"(II) a jacketed, hollow point projectile that may be used in a handgun and the jacket of which is designed to produce, upon impact, evenly spaced sharp or barb-like projections that extend beyond the diameter of the unfired projectile; or

"(III) a jacketed projectile that may be used in a handgun and the jacket of which has a weight of more than 25 percent of the total weight of the projectile; but

"(ii) does not include—

"(I) shotgun shot required by Federal or State environmental or game regulations for hunting purposes;

"(II) a frangible projectile designed for target shooting;

"(III) a projectile that the Secretary finds is primarily intended to be used for sporting purposes; or

"(IV) any other projectile or projectile core that the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil or gas well perforating device.".●

By Mr. LEAHY:

S. 2054. A bill to amend the Rural Electrification Act of 1936 to remove the 7-percent interest rate limitation on certain Rural Electrification Administration loans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL ELECTRIFICATION ADMINISTRATION LOAN AMENDMENTS ACT OF 1994

Mr. LEAHY. Mr. President, today I am introducing legislation to repeal the 7-percent interest rate cap on certain Rural Electrification Administration loans. This legislation will repeal a provision that was included in the Rural Electrification Loan Restructuring Act of 1993, (H.R. 3123/P.L. 103-129).

When President Clinton signed H.R. 3123, he indicated concern over the 7-percent cap on certain REA loans and expressed that he would work with Congress to remove this provision. The legislation that I am introducing today is a good-faith effort on the part of the administration to resolve this issue with Congress.

In President Clinton's "Statement on Signing the Rural Electrification Loan Restructuring Act of 1993" he explained:

> The act places a 7-percent interest rate cap on certain REA loans, including those refinanced through the Department of the Treasury's Federal Financing Bank. Experience with Federal credit programs indicates that such statutorily fixed interest rate ceilings produce unpredictable and unintended results, including (1) inequities among borrowers using the program at different times; (2) extraordinary demands for loans when market interest rates are high; and (3) increased budget deficits. The "openended" character of subsidies resulting from the interest rate cap is inconsistent with the administration's objective of managing Federal subsidies more effectively.

I would like to inform my colleagues of my intent to seek quick action on this legislation. I will move next week to discharge this bill from the Committee on Agriculture, Nutrition, and Forestry and to seek final passage.

By Mr. WOFFORD:

S. 2055. A bill to amend the Guaranteed Rural Housing Loan Program provisions of the Housing Act of 1949; to

the Committee on Banking, Housing, and Urban Affairs.

GUARANTEED RURAL HOUSING FAIRNESS ACT

• Mr. WOFFORD. Mr. President, today I am introducing the Guaranteed Rural Housing Fairness Act to ensure our rural communities have ample opportunity to obligate their Farmers Home Administration [FmHA] 502 Program allocation. I very much support the program. However, I am very concerned that the planned pooling on May 2, 1994, is unfair to communities like those in Pennsylvania that experienced a particularly difficult winter. Pennsylvania will lose millions of dollars if the pooling occurs. This is unacceptable.

Pennsylvania has experienced one of the most severe winters in decades, 66 of the 67 counties have applied for Federal disaster assistance. The winter was so severe that construction was not possible or practical. Therefore, Pennsylvania has gotten a slow start in using its 502 funds. Without construction, there is no inventory to sell and without sales there are no loans to process. Without loans to process, there are no requests from lenders to FmHA for 502 loan guarantees.

The Guaranteed Rural Housing Loan Program is absolutely vital in assisting needy rural residents to obtain quality, permanent and affordable housing. At a time when our rural communities are recovering from the severe winter and spring building is picking up, why are we pooling these essential funds on May 2, 1994? This same thing happened last year and Pennsylvania lost $7 million, causing a catastrophic situation because homes were under construction and loans in process and suddenly the program was out of money. I am concerned this may happen again this year.

States that have a demonstrated need and through no fault of their own are delayed, should be given every opportunity to use their 502 Program allocation. For this reason, I have introduced the Guaranteed Rural Housing Fairness Act to ensure that States like Pennsylvania who have seen the real benefit of this program are given every opportunity to assist their rural communities.•

ADDITIONAL COSPONSORS

S. 1149

At the request of Mr. DOMENICI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1149, a bill to establish in the Department of the Interior the Office of Indian Women and Families, and for other purposes.

S. 1648

At the request of Mr. GLENN, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Michigan [Mr. LEVIN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1648, 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 the Great Lakes and other United States waters, and for other purposes.

S. 1652

At the request of Mr. BENNETT, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1652, a bill to amend the National Trails System Act to designate the Great Western Trail for potential addition to the National Trails System, and for other purposes.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1729

At the request of Mr. DOMENICI, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1729, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 Federal income tax rate increases on trusts established for the benefit of individuals with disabilities or for college education costs of a beneficiary.

S. 1836

At the request of Mr. DOLE, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1836, a bill for the relief of John Mitchell.

S. 1853

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1853, a bill to amend the Elementary and Secondary Education Act of 1965 to extend Federal assistance programs related to educational television programming, and for other purposes.

S. 1933

At the request of Mr. MCCAIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1933, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 1935

At the request of Mr. LAUTENBERG, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1935, a bill to prohibit lobbyists and their clients from providing to Legislative Branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures.

S. 1949

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1949, a bill entitled the "Mercury-Containing and Rechargeable Battery Management Act."

S. 2006

At the request of Mr. DOLE, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2006, a bill to require Federal agencies to prepare private property taking impact analyses, and for other purposes.

S. 2007

At the request of Mr. WOFFORD, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2007, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the end of World War II and General George C. Marshall's service therein.

S. 2030

At the request of Mr. ROTH, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Indiana [Mr. LUGAR], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2030, a bill to amend the Internal Revenue Code of 1986 to limit the tax rate for certain small businesses, and for other purposes.

S. 2042

At the request of Mr. DOLE, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 2042, a bill to remove the United States arms embargo of the Government of Bosnia and Herzegovina.

SENATE JOINT RESOLUTION 146

At the request of Mr. WOFFORD, the names of the Senator from Indiana [Mr. COATS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Mississippi [Mr. LOTT], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of Senate Joint Resolution 146, a joint resolution designating May 1, 1994, through May 7, 1994, as "National Walking Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution designating May 30, 1994, through June 6, 1994, as a "Time for the National Observance of the Fiftieth Anniversary of World War II."

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. SIMON, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Nebraska [Mr. KERREY], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Concurrent Resolution 26, a concurrent resolution urging the President to redirect United States foreign assistance policies and spending priorities toward promoting sustainable development, which reduces global hunger and poverty, protects the environment, and promotes democracy.

SENATE RESOLUTION 148

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. GORTON], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Resolution 148, a resolution expressing the sense of the Senate that the United Nations should be encouraged to permit representatives of Taiwan to participate fully in its activities, and for other purposes.

SENATE RESOLUTION 170

At the request of Mr. CHAFEE, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Resolution 170, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care.

SENATE CONCURRENT RESOLUTION 67—RELATIVE TO THE ENROLLMENT OF H.R. 2333

Mr. KERRY submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 67

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 201(a) after paragraph (6) insert the following new paragraph:

(7) TITLE V OF PUBLIC LAW 98-164.—To carry out title V of Public Law 98-164, $35,000,000 for the fiscal year 1994 and $35,000,000 for the fiscal year 1995.

(2) In section 140(a)(2), before the period at the end of the first sentence insert ", to recover the costs of providing consular services".

(3) In section 201(a)(1), strike "$473,488,000" and insert "$487,988,000" and strike "$480,362,000" and insert "$494,862,000".

(4) In section 101(b)(2), insert the following new subparagraph (F):

"(F) $2,000,000 is authorized to be appropriated for for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research."

(5) In Section 516, strike "Senate" and insert "Congress".

(6) In the Table of Contents, strike "Sec. 249" and insert "Sec. 239" immediately before "Increasing African participation in USIA exchange programs."

SENATE RESOLUTION 206—RELATIVE TO THE COMPILATION OF EULOGIES ON THE LIFE OF RICHARD M. NIXON, FORMER PRESIDENT OF THE UNITED STATES

Mr. DOLE (for himself, Mr. COVERDELL, Mr. STEVENS, and Mr. MACK) submitted the following resolution; which was considered and agreed to:

S. RES. 206

Whereas, all American Presidents affect history in their own way, but few have made more history or shaped the history of their times more than Richard Nixon;

Whereas, millions of men and women across America and around the world mourn the death of the 37th President of the United States;

Whereas, he will be remembered for his foreign policy accomplishments, and for his dedication to peace;

Whereas, in his first inaugural address, President Nixon said "The greatest honor that history can bestow is the title peacemaker.";

Whereas, because of his efforts as President to improve relations with the then-Soviet Union, to bring China out of isolation, and to forge peace in the Middle East, Richard Nixon more than earned the title of peacemaker;

Whereas, he travelled the world, speaking on behalf of democracy, freedom, and peace;

Whereas, he proposed a landmark family assistance program, created the Environmental Protection Agency, expanded the Food Stamp Program, backed the innovative program call "revenue sharing," signed the Consumer Product Safety Act, and emphasized strengthening law enforcement;

Whereas, more and more Americans have come to appreciate President Nixon and his accomplishments;

Whereas, they admire him not because he was perfect, but because of his courage and perseverance, his intelligence and his vision, the fact that he loved his family and because he loved his country; and

Whereas, whether it was facing an anti-American mob in Venezuela, or going toe-to-toe with Khrushchev in the famed "kitchen debate," Richard Nixon always stood up for America: Therefore be it ,

Resolved, That the Senate directs that the eulogies offered concerning the life of the Honorable Richard M. Nixon, former President of the United States, former Vice President of the United States, former Representative and former Senator from the State of California be bound and printed as a Senate Document.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

SENATE RESOLUTION 207—RELATIVE TO RWANDA

Mr. SIMON (for himself, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. PELL, Ms. MOSELEY-BRAUN, Mr. WOFFORD, and Mr. FEINGOLD) submitted the following resolution; which was considered and agreed to:

S. RES. 207

Whereas on April 6, 1994, Presidents Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed when their plane was shot down just outside Kigali, leading to an eruption of violence in Rwanda;

Whereas the systematic and indiscriminate massacre of civilians, estimated in the tens of thousands, is a crime against humanity;

Whereas the violence currently being perpetrated by the Rwandan government forces and their allied militias, as well as the Rwandan Patriotic Front, against members of both the Tutsi and Hutu ethnic groups is deplorable and violates all standards of human rights;

Whereas food shortages and lack of medical supplies in Rwanda, and the evacuation of humanitarian relief workers, has put millions of lives at risk;

Whereas a peace accord signed in Arusha by the Habyarimana government and the Rwandan Patriotic Front in August 1993 created the basis for formation of an integrated transitional government in Rwanda;

Whereas the United Nations Security Council voted in October 1993 to deploy a force of 2,500 peacekeepers, the United Nations Assistance Mission for Rwanda (UNAMIR) to assist in implementation of the Arusha accords;

Whereas tens of thousands of Rwandans have sought the protection of UNAMIR forces and refuge from the continuing violence;

Whereas a number of contributing nations have withdrawn their troop contingents from the UNAMIR operation and other nations contributing forces may follow suit; and

Whereas continued unrest and violence in Rwanda threatens the stability of the entire Central African region: Now, therefore, be it:

Resolved, That the Senate—

(1) deplores the brutal and systematic massacre of civilians and individuals sympathetic to the political opposition in Rwanda by the Rwandan military and associated groups, as well as the Rwandan Patriotic Front.

(2) urges the United Nations and the Organization of African Unity to continue efforts to gain agreement on a credible cease-fire and to facilitate negotiations between the parties to the conflict, based upon the Arusha accords;

(3) calls on all parties, including the Rwandan army, related militias particularly Colonel Bagosora, Colonel Augustin Bisimungu, Capitan Pasqual Simbikangwa and Colonel Mpiranya as well as the Rwandan Patriotic Front.

(A) to exercise restraint and control over their forces,

(B) to accede to an immediate and unconditional ceasefire,

(C) to respect such cease-fire and ensure the safety of innocent civilians,

(D) to guarantee free passage of humanitarian assistance to all in need of such aid, and

(E) to recommit themselves to the principles set forth in the Arusha accords;

(4) calls on the United Nations to consider carefully both military and diplomatic options which are consistent with the Arusha accords and will ensure the safety of innocent civilians, assist in monitoring an eventual cease-fire or peace agreement, facilitate the delivery of humanitarian relief, and ensure the viability of these options;

(5) commends President Clinton for his swift condemnation of and response to this

crisis, and applauds the efforts of the United States Ambassador to Rwanda, David Rawson, in ensuring the safe and swift evacuation of Americans from Rwanda;

(6) urges President Clinton to continue diplomatic efforts at the highest levels to achieve prompt resolution of the political and humanitarian crisis in Rwanda.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED

INTERSTATE BANKING AND BRANCHING ACT OF 1994

FEINGOLD AMENDMENT NO. 1659

Mr. FEINGOLD proposed an amendment to the bill (S. 1963) to permit certain financial institutions to engage in interstate banking and branching; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . GAO REPORT ON DATA COLLECTION UNDER INTERSTATE BRANCHING.

(a) IN GENERAL.—The Comptroller General shall submit to the Congress, not later than 9 months after the date of enactment of this Act, a report that—

(1) examines statutory and regulatory requirements for insured depository institutions to collect and report deposit and lending data; and

(2) determines what modifications to such requirements are needed, so that implementing the interstate branching provisions contained in this Act results in no material loss of information important to regulatory or congressional oversight of insured depository institutions.

(b) CONSULTATION.—The Comptroller General, in preparing the report required by this section, shall consult with individuals representing the appropriate Federal banking agencies, insured depository institutions, consumers, community groups, and other interested parties.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

METZENBAUM AMENDMENT NO. 1660

Mr. METZENBAUM proposed an amendment to the bill S. 1963, supra; as follows:

On page 26, after line 18, insert the following new title:

TITLE II—BANK AND THRIFT STATUTE OF LIMITATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Bank and Thrift Statute of Limitations Clarification Act of 1994".

SEC. 202. AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.

Section 11(d)(14)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821 (d)(14)(B)(i) is amended by inserting after "receiver" the following: ", regardless of whether the claim may have been barred under any otherwise applicable statute of limitation at the date of such appointment, unless such claim was barred more than 5 years before the date of such appointment".

SEC. 203. APPLICABILITY.

The amendment made by section 202 shall apply to all actions pending or brought by the Federal Deposit Insurance Corporation and the Resolution Trust Corporation as conservator or receiver on or after August 9, 1989.

On page 1, between lines 2 and 3 insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 1, line 4, strike "Act" and insert "title".

RIEGLE (AND OTHERS) AMENDMENT NO. 1661

Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. GRAHAM, Mr. ROTH, Mr. FEINGOLD, Mr. KERREY, Mr. SIMPSON, and Mr. CAMPBELL) proposed an amendment to the bill S. 1963, supra; as follows:

On page 6, strike lines 10 through 12, and insert the following:

"(A) COMBINATIONS AUTHORIZED.—Beginning on June 1, 1997, a bank having".

On page 11, line 6, insert "and prior to June 1, 1997," that applies".

On page 11, lines 17 and 18, strike "LAWS ENACTED SUBSEQUENT TO AUTHORIZATION DATE.—" and insert "EFFECT OF STATE ELECTION.—".

Beginning with page 11, line 25, strike "during the 2-year period beginning on the date of enactment of this subsection" and insert "prior to June 1, 1997".

On page 12, strike lines 19 through 23 and insert the following:

"performance beyond June 1, 1997.

"(8) COMBINATIONS AFTER JUNE 1, 1997.—A State described in para—".

MOSELEY-BRAUN AMENDMENT NO. 1662

Mr. RIEGLE (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill S. 1963, supra; as follows:

On page 1, between lines 1 and 2, insert the following:

"TITLE I—INTERSTATE BANKING AND BRANCHING".

Redesignate sections 1 through 7 of the bill as sections 101 through 107, respectively.

On page 26, after line 18, add the following new title:

TITLE II—FINANCIAL SERVICES

SEC. 201. SHORT TITLE.

This title may be cited at the "National Commission on Financial Services Act".

SEC. 202. ESTABLISHMENT OF NATIONAL COMMISSION ON FINANCIAL SERVICES.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Commission on Financial Services" (hereafter in this title referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—

(1) COMPOSITION.—The Commission shall be composed of 7 voting members and 3 nonvoting members appointed as follows:

(A) Three voting members and 1 nonvoting member to be appointed by the President.

(B) Two voting members and 1 nonvoting member to be appointed jointly by the Majority Leader of the Senate and the Speaker of the House of Representatives.

(C) Two voting members and 1 nonvoting member appointed jointly by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(2) QUALIFICATIONS.—

(A) VOTING MEMBERS.—

(i) IN GENERAL.—Voting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are users of the financial services system, and shall include representatives of business, agriculture, and consumers.

(ii) PROHIBITION.—No voting member of the Commission shall be an employee of the Federal Government or any State government.

(B) NONVOTING MEMBERS.—Nonvoting members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in finance or in the financial services system.

(3) APPOINTMENT.—The appointment of the members of the Commission shall be made not later than June 30, 1994.

(4) TERMS.—Members shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the same manner in which the original appointment was made.

(6) CHAIRPERSON.—The President shall designate 1 of the voting members of the Commission to serve as the chairperson of the Commission (hereafter in this title referred to as the "Chairperson").

(7) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(8) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(9) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 203. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall, after consultation in accordance with paragraph (3), conduct a study of all matters relating to the strengths and weaknesses of the United States financial services system in meeting the needs of users of the system, including all laws, regulations, and policies that govern part or all of the financial services industry or that affect the ability of the financial services industry to effectively and efficiently meet the needs of—

(A) the United States economy;

(B) individual consumers and households;

(C) communities;

(D) agriculture;

(E) small-, medium-, and large-sized businesses (including the need for debt, equity, and other financial needs);

(F) governmental and nonprofit entities; and

(G) exporters and other users of international financial services.

(2) MATTERS STUDIED.—The study required under paragraph (1) shall include consideration of—

(A) the changes underway in the national and international economies and the financial services industry, and the impact of such changes on the ability of the financial services system to efficiently meet the needs of the United States economy and the users of the system during the next 10 years and beyond;

(B) the adequacy of the existing framework of Federal and State laws and regulations, and the extent to which Federal laws and

regulations, in an efficient and cost-effective manner—

(i) achieve consumer protection objectives;

(ii) promote competition and prevent anticompetitive acts and practices or undue concentration;

(iii) ensure that the financial services are delivered in a nondiscriminatory and cost-efficient manner; and

(iv) ensure access to the financial services system for all potential users of the system, regardless of where such users are located; and

(C) the extent to which the Federal regulatory structure impacts the achievement of the objectives in subparagraph (B).

(3) CONSULTATION.—Consultation in accordance with this paragraph means consultation with—

(A) the Board of Governors of the Federal Reserve System;

(B) the Director of the Office of Thrift Supervision;

(C) the Chairperson of the Federal Deposit Insurance Corporation;

(D) the Comptroller of the Currency;

(E) the Secretary of the Treasury;

(F) the Secretary of the Department of Housing and Urban Development;

(G) the Securities Exchange Commission;

(H) the Commodities Futures Trading Commission;

(I) the Director of the Congressional Budget Office; and

(J) the Comptroller General of the United States.

(b) RECOMMENDATIONS.—Based on the results of the study conducted under subsection (a), the Commission shall develop specific recommendations for changes in laws and regulations to improve the operation of the United States financial services system, including needed changes in the Federal legislative and regulatory policies and in the Federal regulatory structure that would enhance—

(1) the ability of the financial services system, or any part thereof, to respond to the needs of all potential users of the system;

(2) the systemic safety of the financial services system;

(3) the cost of financial services to users of the system;

(4) the competitiveness of the various providers of financial services;

(5) how funds are allocated to the financial services system; and

(6) how funds are allocated by the financial services system to users of the system or to specific categories of users.

(c) REPORT.—Not later than March 31, 1995, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report describing the activities of the Commission, including the study conducted under subsection (a) and any recommendations developed under subsection (b).

SEC. 204. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any Federal department or agency such information (other than information required by any statute of the United States to be kept confidential by such department or agency) as the Commission considers necessary to carry out its duties under this section. Upon the request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 205. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 additional professional staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Chairperson, any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

SEC. 206. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after the date of submission of the report required under section 203(c). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

PRYOR AMENDMENT NO. 1663

Mr. RIEGLE (for Mr. PRYOR (proposed an amendment to the bill S. 1963, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . MAXIMUM INTEREST RATE ON CERTAIN FmHA LOANS.

(a) IN GENERAL.—Section 307(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)) is amended—

(1) in paragraph (3)(A), by striking "Except" and inserting "Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved, except"; and

(2) in paragraph (5)—

(A) by striking "(5) The" and inserting "(5)(A) Except as provided in subparagraph (B), the"; and

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

"(B) In the case of a loan made under section 310B as a guaranteed loan, subparagraph (A) shall apply notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest that may be charged, taken, received, or reserved.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by subsection (a) shall apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in a State on or after the date of enactment of this Act.

(2) STATE OPTION.—Except as provided in paragraph (3), the amendments made by subsection (a) shall not apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in a State after the date (that occurs during the 3-year period beginning on the date of enactment of this Act) on which the State adopts a law or certifies that the voters of the State have voted in favor of a provision of the constitution or law of the State that states that the State does not want the amendments made by subsection (a) to apply with respect to loans made, insured, or guaranteed under such Act in the State.

(3) TRANSITIONAL PERIOD.—In any case in which a State takes an action described in paragraph (2), the amendments made by subsection (a) shall continue to apply to a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act in the State after the date the action was taken pursuant to a commitment for the loan that was entered into during the period beginning on the date of enactment of this Act, and ending on the date on which the State takes the action.

DASCHLE (AND PRESSLER) AMENDMENT NO. 1664

Mr. RIEGLE (for Mr. DASCHLE for himself, and Mr. PRESSLER) proposed an amendment to the bill S. 1963, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . MOUNT RUSHMORE COMMEMORATIVE COIN ACT.

(a) DISTRIBUTION OF SURCHARGES.—Section 8 of the Mount Rushmore Commemorative Coin Act (104 Stat. 314; 31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be paid during fiscal year 1994 by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the Federal Treasury for purposes of reducing the national debt.".

(b) RETROACTIVE EFFECT.—If, prior to the enactment of this Act, any amount of surcharges have been received by the Secretary of the Treasury and paid into the United States Treasury pursuant to section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect prior to the enactment of this Act, that amount shall be paid out of the Treasury to the extent necessary to comply with section 8(1) of the Mount Rushmore Commemorative Coin Act, as in effect after the enactment of this Act. Amounts paid pursuant to the preceding sentence shall be out of funds not otherwise appropriated.

(c) NUMISMATIC OPERATING PROFITS.—Nothing in this section shall be construed to affect the Secretary of the Treasury's right to derive operating profits from numismatic programs for use in supporting the United States Mint's numismatic operations and programs or to allow the distribution of operating profits from the Numismatic Public Enterprise Fund to a recipient organization under any numismatic program.

D'AMATO (AND OTHERS) AMENDMENT NO. 1665

Mr. D'AMATO (for himself, Mr. RIEGLE, and Mr. SASSER) proposed an amendment to the bill S. 1963, supra; as follows:

On page 26, after line 18, add the following new section:

SEC. 8. SENSE OF THE SENATE CONCERNING MULTILATERAL EXPORT CONTROLS.

(a) FINDINGS.—The Senate finds that—

(1) the United States and its allies have agreed that as of March 31, 1994, the Coordinating Committee (hereafter referred to as "COCOM"), the multilateral body that controlled strategic exports to the former Soviet Union and other Communist States, ceased to exist;

(2) no successor has yet been established to replace the COCOM;

(3) threats to United States security are posed by rogue regimes that support terrorism as a matter of national policy;

(4) a critical element of the United States proposal for a successor to COCOM is that supplier nations agree on a list of militarily critical products and technologies that would be denied to a handful of rogue regimes;

(5) some allies of the United States oppose this principle and instead propose that such controls be left to "national discretion", effectively replacing multilateral export controls with a loose collection of unilateral export control policies which would be adverse for United States security and economic interests;

(6) multilateral controls are needed to thwart efforts of Iran, Iraq, North Korea, Libya, and other rogue regimes, to acquire arms and sensitive dual-use goods and technologies that could contribute to their efforts to build weapons of mass destruction; and

(7) the United States would be forced to make the difficult choice of choosing between unilateral export controls under the Export Administration Act of 1979, which would put American companies at a competitive disadvantage worldwide, or allowing exports that could seriously harm the national security interests of the United States.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should work to achieve a clearly defined and enforceable agreement with allies of the United States which establishes a multilateral export control system for the proliferation of products and technologies to rogue regimes that would jeopardize the national security of the United States; and

(2) the President should persuade allies of the United States to promote mutual security interests by preventing rogue regimes from obtaining militarily critical products and technologies.

RIEGLE (AND D'AMATO) AMENDMENT NO. 1666

Mr. RIEGLE (for himself and Mr. D'AMATO) proposed an amendment to the bill S. 1963, supra; as follows:

On page 4, line 17, add the following after the period: "A State law in effect on the date of enactment of the Interstate Banking and Branching Act of 1994 that permits bank holding companies from only a limited number of States to acquire banks in existence for a specified length of time, in that State, shall be interpreted, under State and Federal law, as permitting bank holding companies from any State, to acquire a bank in that State, under the terms and conditions of such State law."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on Implementation of the Administration's Climate Change Action Plan and the Energy Policy Act of 1992.

The hearing will take place on Tuesday, May 10, 1994, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at (202) 224-9607.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding an oversight hearing on Thursday, April 28, 1994, beginning at 2 p.m., in 485 Russell Senate Office Building on water and sanitation issues in rural Alaska.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, April 26, 1994, at 3 p.m., in open session, to mark up S. 1587, the Federal Acquisition Streamlining Act of 1993.

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

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, April 26, 1994, at 10 a.m., to hear testimony on the subject of the tax treatment of employer-based health insurance.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, April 26, for a markup at 10 a.m. the following:

S. 1587, the Federal Acquisition Streamlining Act of 1993.

S. 1935, a bill to prohibit lobbyists and their clients from providing to legislative branch officials certain gifts, meals, entertainment, reimbursements, or loans and to place limits on and require disclosure by lobbyists of certain expenditures.

S. 622, to authorize appropriations for the U.S. Office of Special Counsel, the Merit System Protection Board, and for other purposes.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, April 26, 1994, beginning at 2:30 p.m., in 216 Hart Senate Office Building to consider for report to the Senate S. 1526, the Indian Fish and Wildlife Resources Management Act of 1994, and for other purposes, to be followed immediately by an Oversight Hearing on the regulation of gaming.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 26, 1994 at 10 a.m. to

hold a hearing on "Hope for Tomorrow: Crime Prevention for At-Risk Children".

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

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Small Business be permitted to meet while the Senate is in Session today in order to consider the nomination of Jere Glover to be Chief Counsel for Advocacy of the Small Business Administration.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 26, 1994 at 4 p.m. to hold a closed markup on the fiscal year 1995 Intelligence Budget.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet for a hearing on Foreign Language Education and ESEA Reauthorization, during the session of the Senate on April 26, 1994, at 10 a.m.

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

SUBCOMMITTEE ON NUCLEAR DETERRENCE, ARMS CONTROL AND DEFENSE INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Deterrence, Arms Control and Defense Intelligence of the Committee on Armed Services be authorized to meet on Tuesday, April 26, 1994, at 2 p.m., in open/closed session to receive testimony on the Chemical Demilitarization Program in review of the defense authorization request for fiscal year 1995 and the future years defense program.

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

SUBCOMMITTEE ON REGIONAL DEFENSE AND CONTINGENCY FORCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Regional Defense and Contingency Forces of the Committee on Armed Services be authorized to meet at 11 a.m. on Tuesday, April 26, 1994 in open session, to continue to receive testimony on the C-17 settlement and strategic mobility issues in review of the defense authorization request for fiscal year 1995 and the future years defense program.

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

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, PUBLIC BUILDINGS AND ECONOMIC DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask that the Subcommittee on Water Resources, Transportation, Public Buildings and Economic Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, April 26, beginning at 10 a.m., to conduct a hearing to review the General Services Administration's fiscal year 1995 Public Buildings Program and receive testimony on S. 1760, a bill to amend the Public Buildings Act of 1949.

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

ADDITIONAL STATEMENTS

A U.S. STAMP TO HONOR RAOUL WALLENBERG

• Mr. WOFFORD. Mr. President, I wish to express my support for honoring Raoul Wallenberg by placing him on a U.S. stamp. I understand that it is uncommon for a non-U.S. citizen to receive such an honor, however, I believe Mr. Wallenberg should receive full consideration based upon his extraordinary contribution to society.

Raoul Wallenberg went to Budapest during World War II at personal risk to serve as the Swedish Ambassador to Hungary. Before his capture by the Soviet troops, Mr. Wallenberg provided Swedish passports to over 20,000 Jews and found safe shelter for nearly 13,000 others. His efforts and compassion in the face of Nazi genocide are particularly relevant and noteworthy in the context of ethnic strife in the world today.

Mr. President, a large number of Senators have sent letters of support for a Raoul Wallenberg stamp to the Postal Service. Along with my colleagues, I believe we should honor people like Raoul Wallenberg who embody the qualities upon which our Nation was founded, and that it would be most appropriate to honor him with a stamp bearing his likeness.•

TRIBUTE TO FATHER TOM ANDERT

• Mr. DURENBERGER. Mr. President, I rise today to pay tribute to Father Tom Andert, headmaster of St. John's Preparatory School in Collegeville, MN, who is stepping down at the end of this school year.

Over the years, Father Tom has performed a priceless service to education and has had a profound impact on the young men who have attended St. John's.

All of the qualities that typify a great teacher—a love of the classroom, compassion, and a wonderful sense of humor—are embodied in this gifted and dedicated instructor. Students clamor to experience Father Tom's legendary teaching, and every year he adds several sections to accommodate an overflow of students for his regularly scheduled classes.

One of the greatest lessons Father Tom brings to his students is an appreciation of diversity among people. He has taught the value of appreciating what is different about each person.

Throughout Father Tom's teaching career, he has exemplified the blessing of humility, and taught us that any gifts we have are best turned toward the benefit and empowerment of others.

Father Tom has long been instrumental—both as a teacher and as director—in the flowering relationship between St. John's and the famed Benedictine Abbey School in Melk, Austria, and is the founder and director of St. John's Sommerlage Alpenland, a German summer camp.

His unique abilities and talents have not gone unrecognized. Father Tom is the recipient of the Silver Cross of Merit from the Republic of Austria, the Leadership in Educational Excellence Award, and The Armor of Light Award.

He is blessed with a tremendous energy that has touched many in its wake. He was president of Benilde-St. Margaret's in St. Louis Park, a member of the board of regents for St. John's University, and head of the Minnesota Association of Independent Schools.

His contributions to the Association of Independent Schools have been an important factor in raising the quality of education among private schools, and he has led more than 20 evaluation teams accrediting private schools in the United States. This has been a volunteer effort of legendary proportion.

Mr. President, St. John's Preparatory School was founded in 1857, making it the oldest private secondary school in our State. Throughout his tenure, Father Tom has carried out a commitment to liberal arts education—where education means living peacefully with others, examining values and aspirations, and seeking a relationship with God.

With pleasure I say that Father Tom has been my friend. He has been a mentor to my sons, and an integral part of my family's history and the history of St. John's. In the mid-1940's, my father coached his father in football and basketball in the same school where Father Tom would become headmaster.

It is with deep gratitude, Mr. President, that I thank Father Tom Andert for his life of service to the education community and to the young people of the St. John's family.•

OPPOSITION TO EMPLOYER MANDATES IN HEALTH REFORM

• Mr. McCAIN. Mr. President, I am very disturbed by the health care reform proposals that are currently being considered by the various committees of the Senate and the House. Virtually all of these are slightly modified versions of the Clinton plan, with all of its

flaws including health care alliances, mandatory standard benefits packages, global budgets, premium and price controls, and the feature I wish to discuss today, employer mandates. They don't seem to understand, as all of the polls demonstrate, that Americans want no part of this coercive, Government-controlled approach to health reform.

One of the worst aspects of this approach, which is included in the Mitchell, Stark, Dingell and other committee proposals, is the requirement that employers pay for the health insurance of their employees. Such an employer mandate is politically attractive to these committees because it is a hidden tax which gives the average citizen the erroneous impression that someone else is paying the bill. However, let us make no mistake about this, an employer mandate is the equivalent of a large new payroll tax—a tax of up to 7.9 percent under the Clinton plan. Economists agree that all of us will pay this tax, in the form of lost jobs, decreased wages, and higher prices.

Studies by respected independent research firms estimate that the number of jobs that will be lost under the Clinton plan range from 600,000 to over 2 million jobs. In addition, a National Federation of Independent Business [NFIB] survey of its 600,000 members found that more than 25 percent would be forced to close their businesses and another 25 percent would lay off workers if the Clinton plan is passed. The NFIB estimates that 3,717,500 employers, 74 percent of all employers nationally, will have higher payroll costs under the Clinton plan; many more if the small business subsidies are not fully financed and the premium caps are not forced.

In my State of Arizona alone, the impact of the employer mandate would be enormous and devastating. An independent poll of 8,000 Arizona members of NFIB found that 72 percent of small business owners would raise prices, and 45 percent would reduce the size of their businesses. According to a study prepared for the American Legislative Exchange Council, Arizona would lose 14,300 jobs during just the 1st year of the Clinton plan. In addition, wages would be reduced. The average income loss per worker in Arizona would be $390. Another study by CONSAD Research Corporation found that 10,822 jobs would be lost in Arizona assuming that the subsidies are maintained. Other States will experience similar losses.

The committee proposals that are being considered as alternatives to the Clinton plan will also have an adverse effect on the economy and employment. Whether their employer mandates cost us 100,000 jobs or 2 million jobs, the workers who are laid off will be substantially worse off as a result of health care reform. We can achieve the objectives of reform without imposing such costs on employers and employees. The various Republican proposals achieve universal access without employer mandates or new taxes.

Mr. President, I hope that my colleagues on the committees with jurisdiction over health reform will seriously consider the great harm that an employer mandate will do. Even an employer mandate that is smaller than the mandate imposed under the Clinton plan will have a very adverse effect, and will likely become even more burdensome over time as health care costs increase. I ask that a letter from the Coalition for Jobs and Healthcare, representing the employers of over 35 million Americans, be printed in the RECORD.

The letter follows:

COALITION FOR JOBS AND HEALTHCARE,
April 21, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR JOHN: As a coalition of more than one million employers both small and large, we are writing to express our strong opposition to the inclusion of any form of an employer mandate to finance health insurance in health care reform legislation.

Taken together, the signatories of this letter employ over 35 million Americans in all fifty states. We have examined how we would be impacted by an employer mandate, and it is abundantly clear that the mandate is the wrong course for health care reform.

We are united in the belief that the employer mandate is a payroll tax that would cause devastating job loss, wage reductions, and would do great harm to the ability of American business to grow and prosper. We believe that employers who currently do provide insurance for their employees and those who do not would both be hurt by the unaffordable costs and regulatory burden that the employer mandate represents. We believe the employer mandate denies all businesses any role in controlling their own health care costs and brings to a halt ongoing employer innovation in providing health benefits for employees.

The employer community strongly supports health care reform, but will vigorously oppose employer mandates because we believe reform should not come at the expense of the economic health of American business and its employees.

Sincerely,

4M Inc.; 50-Off Stores; 54 Foods, Inc.; A & M Machine, Inc.; A Scape by Design; A. Duda & Sons, Inc.; A. Rea Construction, Inc.; A.L. Cedlious; A.R. Vetter Co., Inc.; A-Acclaim Commercial Lock and Safe; A-C Brake Co., Inc.; A-J Roofing & Waterproofing Co.; A-J Services; A-Team Plumbing & Irrigation; A&D Management Co., Inc.; A&W Restaurants, Inc.; AA Action Carpet Cleaning; AA Industrial Cleaners, Inc.; AAC Corporation; AB Management Group; ABM Industries, Inc.; Abnar, Inc.; AC & C General Contractors; Ace Fire Systems, Inc.; ACME Fence and Lumber; ACME Pacific Repairs, Inc.; ACOM; Acorn Restaurants, Inc.; Acquario Restaurant; Action Electric, Inc.; Adams Consulting Engineers, Inc.; Adams Mechanich Service; Adams O'Reilly, Inc.; Adelman Maintenance Corporation of Milwaukee; Adelpha Plants; Admiral Beverage Corp.;

Admiral Linen Service, Inc.; Admiral Petrolium Co.; ADS Inc.; Advance Service of America; Advance Water Conditioning; Advanced Air Systems, Inc.; Advanced Amusments, Inc.; Advanced Carpet Cleaning; Advanced Communications; Advanced Fire Protection, Inc.; Advanced Fixture & Supply Co.; Advanced Resurfacing Systems; Advanced Waste Technology, Inc.; Advantage Business Services; Advantage Printing, Inc.; Adver-tees Screenprinting; Aerobee Electric, Inc.; Aetna Maintenance Systems, Inc.; Affordable Bus and Coach Conversions; AG/GRO Fert Co., Inc.; Agricultural Producers; Air Action; Air Maintenance, Inc.; Aircraft Service International Group; Airkem Tidewater, Inc.; Airsystems of Florida; Ajax Electric Co., Inc.; AJF, Inc.; Ak Sar Ben Roofing Company; Akerverg & Reimers CPA; Akron Pizza, Inc.; Al's Awning Shop, Inc.; Al's Laundry Specialists; Al's Lawn Service; Aladdin Electric, Inc.; Alalawn Landscape Design & Construction, Inc.; Alarm Detection Systems, Inc.; Alaskan Oil Inc.; Alastar Corp.; Albany Taco, Inc.; Albert H. Wohlers & Co.; Albert J. Kain, Jr.; Albertson's, Inc.; Alexander Aviation Associates, Inc.; Alexandra Inc.; Alexandria & Arlington Window Cleaning Co., Inc.; Alice's Restaurant; Alja Construction; All Clear Window Cleaning; All County Resource Management Corporation; All Plumbing & Installation Co., Inc.; All Purpose Electric Inc.; All Seasons Nursery & Garden Center; All Seasons Pools & Spas, Inc.; All Service Sanitation Co.; All Star Dist., Inc.; All Temp Service; Alleganey Taco Corp.; Allegro Sanitation Corporation; Allen & Gelb; Allen Communications Group, Inc.;

Allen Hughes Septic Tank Services, Inc.; Allen's Plumbing Supply; Allied Protection Services, Inc.; Allied Refrigeration & Electric, Inc.; Allstate Electric, Inc.; Allstate Safe & Lock; Alpaca Enterprises; Alpha Productions Publications; Alpo; Alps Management, Inc.; Altered Spaces, Inc.; Alternative Foods; Alto Shaam, Inc.; Altrix International; Always Open; Amarillo Stainless Steel Repair & Fabrication; AMC Sign Co.; Amel's Restaurant; American Bakers Association; American Banana & Produce, Inc.; American Cabling & Communication, Inc.; American Carpet Cleaning, Inc.; American Coaster Co.; American Communications Group; American Conditioned Air, Inc.; American Data Corporation; American Eagle Distributing Co.; American Edge Inc.; American Family Insurance; American Furniture Manufacturers Association; American Holding Co. American Hotel & Motel Association; American Leak Detection, Inc.; American Machine Tool Distributors Association; American Media, Inc.; American Pizza Partners; American Poolplayers Associations, Inc.; American Portland Cement Alliance; American Reprographics; American Sign Shops; American Society of Travel Agents; American Sound & Electronics, Inc.; American Speedy Printing; American Thermal Corp.; American Trucking Associations, Inc.; American Waste Control, Inc.; American Waste Grease, Inc.; American Waste Removal, Inc.; American Wholesale Marketers Association; American Wholesale Thermographers, Inc.; Americans for Intelligent Healthcare Reform; Amerigo & Scrooge's; Ames Department Stores, Inc.; Amigos Four, Inc.; Amity Lock & Safe; Amway Corporation; An Extra Fresh Flower Co.; Ancha Electronics, Inc.; Anchor Glass Container Corp.; Anchor-Robinson Heating & Cooling, Inc.; Ancient Mariner;

Anderson Asphalt Services, Inc.; Anderson Brothers; Anderson Die & Mfg Co. Inc.; Anderson Erickson Dairy, Inc.; Anderson Painting Co., Inc.; Anderson's Commercial Services; Andes Candies Inc.; Andorris Inc.; An-

dres Management Corporation; Andrews Environmental Co.; Andrews Financial Services and Automatic Bill Paying Service; Andro Engineering, Inc.; Anex Resources, Inc.; Angelica Corporation; Angelo Iron & Metal; Animal Emergency Clinic of Greter Augusta, PC; Animal Medical Clinic; Annadon Electric, Inc.; AnnDen Corp.; Annu Corporation; Anteolope Valley Distributing Co.; Anteope Valley Glass; Anthony Drummond Brokerage Services; Anuenue, Inc.; Anything Groes in Louisville, Inc.; Anytime Sign Systems; Apex Electric, Inc.; Apex Restaurants, Inc.; APM Produce, Inc.; Apoxiforce Temporaries/Plusmates Personnel; Apartment Communities Corporation; Applebaun & Associates, Inc.; Appliance Parts Distributors Association; Appliance Service Center, Inc.; Appliance Service Co.; Applied Office Systems, Inc.; Aqua Marine Technology, Inc.; Aquarium Rental & Servicing Co.; Aquatic Interiors; Archer's Plumbing & Heating, Inc.; Architects VanLom Edwards; Archway Transportation, Inc.; Ardmore Chamber of Commerce; Area Rental and Sales Co.; Argos Food Equipment, Inc.; Argle Furniture Doctors; Arizona Chamber of Commerce; Arizona Cutlery and Sharpening; Arizona Restaurant Association; Arkansas Specialty Co., Inc.; Arko Executive Services, Inc.; Armand's Chicago Pizzaria; Armendariz Ent., Inc.; Armstrong Garden Centers, Inc.; Armstrong's Lock and Supply, Inc.; Arnold Food Services, Inc; Arthur A. Brown Plumbing Co.; Artic Aire, Inc.; Artic Ice, Inc.; Artic Water Systems; Arvo Communications, Inc.;

Ascension Equipment & Rent-all; Ash County HUAC/R;; Ashley Glass Co.; Ashline Pumbling & Heating, Inc.; ASNI—Ad Show Network, Inc.; Aspen Leaf Landscape Maintenance, Inc.; Aspen Refrigeration and Heating Inc.; Asphalt Blended Products; Associated Electric Companies, Inc.; Associated Engineers and Surveyors, Inc.; Associated Landscape Contractors of America; Associated Office Products; Associated Supply Co., Inc.; Associated Technical Welders, Inc.; Association for Suppliers of Printing and Publishing Technology; At Your Service Lawn Care, Inc.; Atchison County Pizza, Inc.; ATCO Restaurant Group; Atherton Restaurant Systems, Inc.; Atladonna Diary; Atlanta Broom Co., Inc.; Atlanta Credit Corporation; Atlanta Exhaust and Carpet; Atlantic Fire Equipment; Atlantic Oil Company; Atlas Appliance, Inc.; Atlas Portable Services, Inc.; Atlas Pumping Company Inc.; Atlas Security and Patrol, Inc.; Auchinachie Plumbing Ltd.; Audio Visual Systems Now; Augur Industrial Fabrications, Inc.; Aurora Design Associates, Inc.; Austaco, Inc.; Automatic Bar Controls, Inc.; AutoSone, Inc.; Averot; Aviation Information Services, Inc.; Avrett Plumbing Co., Inc.; Awards & T-Shirt Specialist; Ayoub Engineering, Inc.; Azalea City Electrical Services, Inc.; Azen Bitnerpierson; B & B Pisas, Inc.; B & H Electric; B & H Plumbing Co.; B & K Plumbing, Inc.; B & R Maintenance Management, Inc.; B & R Systems, Inc.; B.E.M. Restaurant, Inc.; B.G. Lobster & Shrimp Corp.; B.H. Koons Upholstery, Inc.; B.J. Cleaners; B.J.L.C., Inc.; B&C Asphalt & Concrete, Inc.; B&C Enterprise Inc.; B&C Fire Safety, Inc.; B&G Food Enterprised, Inc.; Baas, Bruce & Associates, P.C.; Babbitt's Bindery, Inc.; Bachelli's;

Badger Window Cleaners; Bagel Street Cafe; Baker Plumbing, Inc.; Baldwin Metals Co., Inc.; Balentines Cafeteria; Balentines, Inc.; Ball Industries, Inc.; Balloon Wholesalers International; Balloonatics; Baltimore Bakery, Inc.; BAM-B, Inc.; Bama Bells, Inc.; Bank of the West; Bankers Trust; Banks Quarles Plumbing, Heating & Cooling, Inc.; Banner Sign Co.; Banner Stationers; Bano Quality Produce; Bar Maid Corporation; Barbagallo's; Barber Dairies, Inc.; Barbizon International, Inc.; Barefoot Peddler, Inc.; Bargreen-Ellingson Inc.; Barkett Fruit Company, Inc.; Barlow Nielsen Associates, Inc.; Barnes Drapery; Barnes Maintenance Service, Inc.; Barnside Management; Barra Communications; Barrington Saddlery; Barrow's House; Bartingale Mechanical, Inc.; Barton Glass Co.; Barton, Inc.; Basic American, Inc.; Batchelor's Service America (Heating & Air Conditioning); Bavarian Bakery; Bay Area Restaurant Appliance Service Inc.; Bay California Painting Co.; Bay Ridge Beach, Inc.; Bayside Restaurant Service, Inc.; BB Holdings/Blue Boar; BBG Specialty Foods, Inc.; BCDE Pisa, Inc.; BCH Mechanical, Inc.; Beaudoin Electrical Construction, Inc.; Becker Construction Co., Inc.; Beckman Bros., Ltd.; Beckman Produce, Inc.; Beckman Services; Beckner, Inc.; BeeGee Shoe Corp.; Begin Home & Maintenance Service; Behlog & Son Produce, Inc.; Belair Builders Inc.; Bell's Chicken Villas, Inc., No. 2 (KFC); Bellaco Inc.; Belle Haven Realty Co.; Bellenir Roofing; Beltram Cutlery Service;

Ben Jackson Enterprises; Ben's Rental & Sales; Benefit Design Services; Benelux Inc.; Benihana National Corp.; Benjamin Plumbing; Benentt Drane Karamatsu Electrical Engineers, Inc.; Bennett Refrigeration, Inc.; Bennett's Economy Sanitation; Benton Harbor Awning & Tent; BER Refrigeration, Heating & Cooling, Inc.; Bergn Food Enterprises, Inc.; Berkheimer Associates; Berkshire Soundtronics, Inc.; Bernard's New York Deli; Berry's Garden Center; Bessette Plumbing and Heating, Inc.; Best Consulting; Best Lock and Safe, Inc.; Best Plumbing; Best Products Co., Inc.; Best Shot, Inc.; Best Western (Campbellsville, KY); Best Western (Eulonia, GA); Best Western (Harlan, KY); Best Western CottonTree Inn; Best Western Gratz Park Inn (Lexington, KY); Best Western International, Inc.; Bestler Corporation; Better Brands; Bettiol Fuel Service, Inc.; Bev-Lin Enterprises Inc.; Bexley's Monk; Bey-Lea Dairy; Bid Red's Lawn Service, Inc.; Big Blue Stores, Inc.; Big Red Q QickPrint; Bill Grays/Tom Wahls; Bill's Sweeping Co. Inc.; Bill-Pat of Wildwood; Billings & Associates; Bills' Produce; BIMA Corp.; Biotech of Texas; Birdseye Dairy, Inc.; Bishop Heating & Air Conditioning Co.; Bistro 122; Biz-Mark, Inc.; Bizzie Bee; Bjork Industries, Inc.; BKK Management Co.; Blair Lawn & Landscape, Inc.; Blairs' Western Wear Inc.; Blaising Fire & Water, Inc.; Blake Enterprises; Blanchford Training & Development Corporation; Blanton Photography; Blaylock Heating & Air Conditioning, Inc.; Blish-Mize Co.; Blitch Plumbing; Blochs Restaurants Inc.;

Bloom & Things Florist; Bloomsburg Steak Assoc., Inc.; Blue Grass Hardware; Blue Grass Vending; Blugrass Plumbing Co.; Bo-Chem Co., Inc.; Bo-Mar Inc.; Boardman Convenience Stores; Boardman Oil Co.; Bob Hendershot Plumbing Co.; Bob Lee's Inc.; Bob's Painting, Inc.; Bobby Meeks Environmental Services, Inc.; Bocco's Italian Restaurant; Bockelmans Restaurant; Boise Refrigeration Service Co.; Bolling's Restaurant, Inc.; Boly Louies Restaurant; Bones Lawn Care, Inc.; Bonfatto's Inc.; Bonnie Dune Ice Cream Corporation; Boomguard Builders; Boone County Produce Co.; Borden Trucking, Inc.; Border Enterprises, Inc.; Border Management Cor.; Border Taco, Inc.; Bordine's Better Blooms; Bosico, Inc.; Bostic's Lawm & Landscaping, Inc.; Bouquet Country; Bowlin's Incorporated; Bowling Green Restaurants, Inc.; Bowman Petroleum Co., Inc.; Box Appliance Service Corporation, Inc.; Boyce Industries, Inc.; Boykin Management Company; Bracy & Thomas P. S., Inc.; Braden Plumbing, Inc.; Bradford & Riley, Inc.; Bradford Oil Co.; Bradlees, Inc.; Branch Management Corporation; Brancheau Mgmt. Co.; Brandywine Valley Engineers, Inc.; Brass Smith, Inc.; Brawn's Ice Cream Company; Breadeaux Pisa, Inc.; Brevard Restaurant Equipment & Supply Co., Inc.; BRF, Inc.; Bridgewater Sanitation; Broadstreet Business Services; Brock's Chicken Inn; Brokers, Inc.; Brookfield Tire & Supply; Brooks Lock & Key, Inc.; Brookside Properties; Brothers Electro Mechanical; Brothers Industrial Cleaning, Inc.; Brown & Root, Inc.; Brownsburg World Travel;

BRS Music & Sound, Inc.; Bruce-Terminix Co.; Bryan Restaurants, Inc.; Brydebell Electric; Bubba's Convenience Stores; Buckles of America; Buckley Road Development Co.; Buckley's Prairie Landscaping, Inc.; Buddy's Mini Marts, Inc.; Budget Commercial Refrigeration & AC Service, Inc.; Budgetel Inns, Inc.; Buff's Truck Plaza; Buffalo Overhead & Hollow Metal Door, Inc.; Buffalo's Expert Service Technical, Inc.; Buffets, Inc. (Old Country Buffet); Building Construction Inc.; Bulkmiller Productions; Burger Bobs; Burger King; Burkholder Flint Associates; Burkland Flowers; Burlington Coat Factory; Burlington Franchise Group; Burns Brothers, Inc.; Burns Electric Inc.; Busch Garden Center; Bush Air Conditioning Centers, Inc.; Bush, Roed & Hitchings, Inc.; Business Service Systems Security, Inc.; Busler Enterprises, Inc.; Buster Lind Produce, Inc.; Bydal Designs; C & J Restaurant Management Co.; C & L Contracting, Inc.; C & N Refrigerations, Air Conditioning, and Heating; C & S Plumbing; C & S Press; C & T Design & Equipment Company, Inc.; C & W One Stops; C. Refrigeration of York, Inc.; C.C. Landscaping; C.D.A. Enterprises, Inc.; C.F.C. Food Management Inc.; C.M.I. Maintenance, Inc.; C-H Catering Co.; C&C Mobile Sharpening; C&M Smith Restaurants Inc.; C&R Holdings Inc. (St. Simon Island, GA); Cactus Vacuum Truck Service, Inc.; Caddels Lock-Key Service; Cafe Espresso; Cahill & Associates; Cajun Bell Inc.; Calebs Roofing, Inc.; California Healthline; California Suites; Calise & Sons Bky., Inc.; Callos Personnel Services; Calper Inc. dba Food Plaza, Calvert Lumber Co., Inc.; Camolur Inc.;

Campagna-Turano Baking Co.; Campbell & Johnson, Engineers PA; Campbell Foods Inc.; Campbell House Club Restaurant; Campbell House Country Club; Campbell House Inn; Campus Concepts Inc.; Canadian Motel Associations (St. Simons Island, GA); Cancer Treatment Centers International; Cancer Treatment Centers of America; Cancer Treatment Research Foundation; Cannon Services; Cant Oil Co.; Canvar Plumbing Co., Inc.; Canvas Products; Canyoneers, Inc.; Cape Deli Foods Inc.; Cape Fear Publishing Company, Inc.; Capital Carryout; Capital City Produce; Capital Coil Cleaning Co.; Capital Machine Co., Inc.; Capital Pizza Hut, Inc.; Capital Produce, Inc.; Caplan Sportsworld; Capp Care, Inc.; Capriccio Restaurant; Capstone Properties Inc. (San Clemente, CA); Captain Development Co., Inc.; Captive-Aire Systems, Inc; Car-Paul Safe & Lock Co.; Carbon Dioxide, Inc.; Carbonic National Systems Inc.; Cardina Sound Communications-MUZAK; Cardinal Maintenance; Career Fair World; Carefree Landscaping, Inc.; Carl Colteryahn Dairy, Inc.; Carl Jarl Lock & Security; Carl's Plumbing Services, Inc.; Carlson Distributing Company, Inc.; Carnegie Foods, Inc.; Caro-Mex, Inc.; Carolina; Carolina Pizza Co.; Carolina

Pizza Huts, Inc.; Carolina Taco Inc.; Carolina Truss & Mfg., Inc.; Caroline's Florist Shoppe; Carolyn Jones Advertising, Inc.; Carousel Dinner Theatre; Carpet Care; Carpet Cleaners Plus; Carraway Glass Co., Inc.; Carreca Enterprises, Inc.; Carrera Construction Co., Inc.; Carrera Landscaping, Inc.; Carrol's Exhaust Service; Carryer's Carpentry & Repair; Carson City Chamber of Commerce;

Carter Enterprises; Carter Enterprises, Inc.; Casa Ole Mexican Restaurants and Cantina; Casico Management, Inc.; CAT Enterprises; Caton's Plumbing, Heating & Air Conditioning; CBS Mechanical, Inc.; CC & J Co.; CC Greenery, Inc.; Ceiling Clean International, Inc.; Ceiling Pro International, Inc.; Celina Restaurants, Inc.; Cellar Market; CEMA Inc.; Cemco Inc.; Cenco, Inc.; Cenco, Inc. for Central Plumbing and Heating; Centennial Tap Beer Service, Inc.; Center City Hotel (Washington, DC); Center Rental and Sales, Inc.; Central Alabama Nursing; Central Carpet Cleaning Sales & Service, Inc.; Central Coast Printing; Central Dairy Co.; Central Lawnsprinkler, Inc.; Central Missouri Asphalt Co., Inc.; Central Plumbing Co. Inc.; Central Quality Service Corporation; Central Specialities; Central Steel Products; Central Valley Landscape; Century Air Conditioning Company; Century Fast Foods, Inc.; Century Management, Inc.; Century Office System, Inc.; Ceres Cafe; Cerritos Ford; Cettier-Montane, Inc.; Chagnon Refrigeration; CHAI III Inc., Jerry's Sub, Pizza; Champion & Associates, Inc.; Champions Safe and Lock, Inc.; Chander & Chandler; Chandler's Parts & Service, Inc.; Channel Home Centers, Inc.; Charles Bailly & Company; Charles C. Townes & Associates; Charles H. Liphart & Son; Charles Lake Realty Inc.; Charles Mason Von Henner, MD; Charles Services, Inc.; Charles Winslow International Limited; Charlie Sciara & Son Produce Co., Inc.; Charlie's Commercial Plumbing; Chas A. Bernick, Inc.; Cheddar's, Inc.; Cheeks Construction; Cheery Mechanical, Inc.; Chem Cab CO2; Chem-Dry By State Systems; Chem-Dry of Macon; Chem-Dry by Helf;

Chernesky, Heyman & Kress, Attorneys At Law; Chernoff Sales, Inc.; Cherokee Restaurant; Chesapeake Bay Seafood House Restaurants; Chester's Restaurant Supply Co.; Chesterfield Management, Inc.; Chevy Duty, Inc.; Chicago Diversified Foods Corp.; Chicago Power; Chicago Trashpacker Corporation; Chirsty & Christy, Inc.; Choice Hotels International, Inc.; Chowder's Famous Fish and Seafood; Chrishawn Associates, Inc.; Christian Delivery Chair Service Inc.; Christian's Tutwiler; Cicero's; CIGNA Corporation; Ciminillo Produce Co.; Cincinnati Ceiling Cleaning; Circle B Enterprises, Inc.; Circle K; Circle Packaging Co.; City; City Hall Pub; Civil & Environmental Consultants, Inc.; CKS, Inc.; CL Inc.; Claire's Stores, Inc.; Clancy's, Inc.; Clarion Hotel (New Orleans, LA); Clark Sportswear, Inc.; Classic Markets Corporation; Clay Brewer Enterprises, Inc.; Clay Diversified, Inc.; Clayton Management; Clean It Right Carpet Care; Cleany Boppers, Inc.; Clear-Vu Window Cleaning, Inc.; Climatic Corporation; Clover Bell Corp.; Clover Leaf Dairy; Cloverdale Travel Plaza; CNC Enterprises, Inc.; CO2 In Action, Inc.; COA, Inc.; Coach House Restaurant; Coal Breeze Corporation; Coast Plumbing, Inc.; Coastal Arcades and Investments, Inc.; Coastal Electric Co., Inc.; Cobra Well Service, Inc.; Cockle Law Brief Printing Co.; Coffee Times; Cofield's Custom Cabinetry; Cohlmia Home Gallery; Coit Services of Colorado; Colamco, Inc.; Colandrea New Corner Restaurant, Inc.; Coldwell Banker Gifford Realty, Inc.; Colle & McVoy, Inc.;

College Consultant Services, Inc.; Colley & McCoy Co.; Collier, Inc.; Collins Plumbing & Heating Co.; Colomex, Inc.; Colonial Manor Apartments; Colonial Tool & Electronics; Color World, Inc.; Colorado Beverage Distributing, Inc.; Colorado Candle & Supply; Colorado Restaurant Association; Colt Petroleum Corporation; Colt Services; Columbia Basin Pizza Hut, Inc.; Columbia Investments Builders, Inc.; Columbird QSR, Inc.; Columus Sign Co.; Comes Investments, Inc.; Comet Inc.; Comida Corp., Inc.; Comm. Systems Associates, Inc.; Command Irrigation Inc.; Commander's Palace; Commerce Service Bureau, Inc.; Commercial Air Conditioning, Inc.; Commercial Appliance Service; Commercial Beverage Systems, Inc.; Commercial Equipment Repair, Inc.; Commercial Kitchen Cleaners, Inc.; Commercial Metal Fabricators, Inc.; Commercial Parts & Service; Commercial Realty Specialists, Inc.; Commercial Restaurant Equipment Service, Inc.; Commercial Services, Inc.; Commercial Towel Service, Inc.; Commercial Appliance; Computer Solutions; Computerpeople, Inc.; Confort Inn Greenville (Greenville, SC); Congress Abstract Corporation; Congress Title Insurance Co.; Conklin Lawn Care; Conrad Catering; Conrad Enterprises, Inc.; Consolidated Heliflight, Inc.; Consolidated Concepts, Inc.; Contaco, Inc.; Continental Sea Products, Inc.; Contract Resources Corp.; Contract Sweepers Company; Control & Equipment Co.; Control-o-fax Systems, Inc.; Convenient Food Mart; Cood's Co.; Cook & Cook, Ltd.; Cooper's Turkey Place; Coors Distributing Company; Copilabs, Inc.; Corman Investments, Ltd.; Corner Investments, Inc.; Corporate Awards, Inc.;

Corporate Quarters, Inc.; Cortina Inn; Cotton Patch Cafe, Inc.; County Club Restaurant; Country Cupboard Restaurant Shop; Countrywide Plumbing, Inc.; Courtesy Refrigeration, Inc.; Courtyard (Fresno, CA); Cousins Subs; Cowlitz County Title Co.; Coye's Canvas & Awning, Inc.; Crab Pot Restaurant; Crane Plumbing & Heating, Inc.; Crawford Fitting Company; Creative Plant Rentals; Creel Crop.; Crippen Sheet Metal, Inc.; Cross Country Inn Magazine; Cryo Weld Corporation; Cryogenic Carbonic Engineering Inc.; Crystal Clear Window Cleaning; Crystal Linen/Uniform Service; CSI Associates (St. Simons Island, GA); CTJ Construction Co., Inc.; CTS Dry Cleaners; Cubertson Sheet Metal; Cuelsay's Frozen Custard; Culbertson Sheet Metal & Electric; Cull's Sales & Service, Inc.; Curley's Dairy Co.; Curtis Equipment Co., Inc.; Custom Coach Corp.; Custom Stainless; CutCo Industries, Inc.; D & D Enterprises; D & E Construction, Inc.; D & L Security Services & Investigations, Inc.; D & M Refrigeration, Inc.; D & M Linen Supply, Inc.; D & R Service, Inc.; D & R Security, Inc.; D & S Carpet Cleaning * Flooring Maint.; D.C. Associates Northeast Inc.; D.D.O.-CAL Inc.; D.G. Hand Construction Co.; D.G. Smith Enterprises Inc.; D.J. Bauer Plumbing, Inc.; D'Albini & Associates, Ltd.; D-J Enterprises; DAC Engerprises, Inc.; Dahlgren Duck & Associates; DAK Landscape Maintenance, Inc.; Dakota Dunafon Inc.; Dakota Refrigeration, Inc.; Dale Hubbert Financial Services; Daly City Locksmith; Dalzell Inc.; Damiano Management; Damon's, Inc.; Dan Howard Contracting, Inc.; Dan McKlusky's Butchery;

Dan McKlusky's Restaurant; Dan's Draft Systems; Danco Restaurant Enterprises, Inc.; Danco Service Corp.; Danrose Corporation; Dante's Restaurants; Dasher Management; Dataworks, Inc.; Dave and Buster's of Texas, Inc.; David L. Harmon Enterprises, Inc.; David Lynch Graphic Design; David M. Hickman; Davidson Electrical Enterprises, Inc.; Davis Mouldings & Millwork; Davis Oil Co., Inc.; Davis Waste Management, Inc.; Davro L.P.; DaWood Mexican Inc.; Days Inn (Carrollton, KY); Days Inn (Easton, MD); Days Inn (Shelbyville, KY); Days Inn (Starke, FL); Days Inn (Tampa, FL); Days Inn (Wheeling, WV); Days Inn of America, Inc.; Dayton Sweeping Services, Inc.; Dayva International; DBA Cameron Linen Supply; DC Bruce Inc.; DCI Food Equipment, Inc.; DDG Inc.; Deb-Mark Etnreprises, Inc.; Debray Enterprises; DeClerk Enterprises; Deerfield Construction Co., Inc.; DeGennare Associates; Dejon Enterprises, Inc.; Del Campo Baking Co.; Delamor Enterprises; Deland Corporation; Delecta Bell Inc.; Delisle & Assoc., Inc.; Dellco Metal Works; Delta Plumbing; Deltamex, Inc.; Den Taco Inc.; Denet Enterprise; Dervey Distributing Company, Inc.; Deserrt De Oro Foods Inc.; Desert Fountain Gas Supply; Designer Information Services; Designers Choice Stainless, Inc.; Deva Associates Corporation; Dewey Corporation; DGR Builders, Inc.; Dial Corp.; Dial One-Purofirst, Inc.; Diamond Dave's Taco Company; Diamond Machining Technology, Inc.; Diamonds Inc.; Diamonette Party Rental;

Dibbs Chemical Supply Co., Inc.; Dick's Supermarket; Dickson Edson McMahon, Inc.; Didak, Inc.; Diet Center, Inc.; DiMarco Constructots Corporation; Dimare's Specialty Foods; DinePro Corp.; Dinsmoor Family Trust; Directions Research, Inc.; Dirtbusters; Dity Different Enterprises, Inc.; Diveley Development Corp.; Diversified Refrigeration Systems, Inc.; Diversified Graphics, Inc.; DNAL, Inc.; Dobbs International Services, Inc.; Dobski & Associates; Dockside Restaurants; Doctor Rooter Sewer Services; Dohrman Insurance Agency; Dolan Foster Enterprises Inc.; Dolson Mexican Foods; Domenic Graziano Flowers, Inc.; Domino Sugar Corporation; Domino's Pizza; Don McComas Enterprises; Don Miller Sales/B & W Distributing; Donaldson Enterprises—Wendy's of South Georgia; Donel Enterprises, Inc.; Doorstep Beverage & Coffee Service; Dora Landscaping Company; Doral Enterprises Corp.; Doral Flowers; Dorothy Cox's Candies Inc.; Double Arch Management; Double Arches; Double D Inc.; Dover Grease Traps, Inc.; Down to Earth Landscape; Downhome Hospitality, Inc.; Drake Bakeries; Drapery Works Systems, Ltd.; Dream Grower Plants; Dream Steam Carpet Cleaning, Inc.; Dreyer's Grand Ice Cream; Drown Electric; DSG Associate, Inc.; DSSC Speciality Contracting; Duckwall—Alco, Inc.; Dudbury Transportation Inc.; Dukart Management Corporation; Dumont Marine; Dunafon Enterprise Inc.; Dunn Plumbing Co., Inc.; Dunsky's Restraurant Equipment & Bar Supply Co.; Durrett Properties, Inc.; Dusobox Corporation; Dustbuster's Sweeping Service, Inc.; Dutch Mill; Dwyer Group.;

Dye Carbon, Inc.; Dyna-Kleen Services, Inc.; Dyson Plumbing Co., Inc.; E&M Plumbing Co., Inc.; E&S Enterprises; E.A. Winslow & Associates, Inc.; E.E.S. International, Inc.; E.K. Enterprises; E.L. Waters Air Conditioning & Heating, Inc.; E.R. Clarke Associates, Inc.; E.T. Inc.; E.W. Brauwn Plumbing & Heating, Inc.; E.W. P., Inc.; E-H Enterprises, Inc.; E-Z Mart Stores, Inc.; E-Z Shelving Systems, Inc.; Eardley Enterprises, Inc.; Earl F. Kegerise, Inc.; Earth Resources Corporation; East Coast Food Equipment, Inc.; Eastern Land Management, Inc.; Eastmark Corporation; Eaton & Associates; Echo Spring Dairy; ECO Industries, Inc.; Economy Products, Inc.; ECPH Management, Inc.; ECSI Executone; Ed & Elizabeth Tripp;

EDCO Enterprises; Eddy Corporation; Eden Hombres Inc.; Edison Brothers Stores; EDJ Inc.; Edlund Co. Inc.; Edwards and Hotchikiss Architects, Inc.; Egan Tour Service; Ehlerding Motor Sports, Inc.; EIPCO Foods Corp.; El Chico Restaurant; El Coyote; El Mac Investments; El-Dorado Motel; Elbell Inc.; Electrical-Electronics Materials Distributors Association; Electro Steam Gen. Corp.; Electronic Systems; Elena Y Francisco, Inc.; Elite Corporate Concepts; Elhorn Bus Services, Inc.; Ellen's Harborside; Elmira Business Machines, Inc.; Elyoria Pizza, Inc.; Embassy Suites, Inc.; Emerald Power Wash Services; Emergency Alert Security Equipment, Inc.; EMI; Employee Benefits South, Inc.; Employers Choice Temp. Services, Inc.; Employers Council on Flexible Compensation; Endicott Johnson;

Engen Enterprises Inc.; Engine Weld and Machine Co.; Engineered Air Conditioning, Inc.; Enjay Enterprises; Enviro-Care Tank Systems, Inc.; Envoy Corporation; EPEC K., Inc.; EPM, Inc.; Equipment Marketing & Sales; Equus Restaurant; Erickson's Super Seal, Inc.; Es-O-En Corp.; Esposito Garden Center; Essex Lamp & Repair; Euro-Tech, Inc.; Evans Artic Air; EVCO Electronics; Everett Carbonic; Evergreen Garden Center; Everybody's Oil Corp.; Ex-Act Marketing, Inc.; Excel Linen Supply; Excell Carpet Care, Inc.; Excelsior Tavern; Executrain of Florida; Exhibit Group Inc.; Expack Seafood Inc.; Expo Oil Co.; Express Lane, Inc.; Express Mart, Inc.; Express Personnel Services, Inc.; Eye, Ear, Nose & Throat Clinic; F & S Plumbing & Hardware Co., Inc.; F & T Heating & Cooling; F. Kost Electric, Inc.; F. Tambellini Restaurant; F. Turner Enterprises, Inc.; F2 Associates Inc.; Factory Grinding Service, Inc.; Fadler Company, Inc.; Fairway Health Insurance Services; Fairway Outdoor Advertising; Fairway Sign Corporation; Fall River Taco Inc.; Falvey Linen Supply, Inc.; Family Buggy Restaurants, Inc.; Family Dollar Stores, Inc.; Family Medical Care; Family Restaurants, Inc.; Faribo Mfg. Co.; Farver/Tupper Association Management Co.; Fast Emergency Plumbing Service; Fast Food Consultants; Fast Food Operators, Inc.; Fast Food Systems, Inc.; Fastrac Convenience Stores; Fastrans; Fat Free Systems, Inc.; Faultless Starch/Bon Ami Company; Fayette Auto Sales; Fazoli's Restaurants, Inc.;

Federated Dept. Stores; Feldman Enterprises Inc.; Fellers Fixtures, Inc.; Felton Company; Ferri Brothers Foods; Fertile Lawn; Feuerhahn, Ltd.; Fiestas Corp.; Fikes Chemical Co. of El Paso; Fikes Hi-Gene, Inc.; Fikes Services, Inc.; Fikes-Micro Services; Fine Woodworking; Fink Baking Corporation; Fire Chief Equipment Co., Inc.; Fire Systems of Michigan, Inc.; FirePro, Inc.; Firetronics, Inc.; First Aid Plus, Inc.; First Federal Savings & Loan Association of Littlefield; First National Development, Ltd.; First Service Insurance, Inc.; First State Communications, Inc.; Fischer Oil Co.; Fitchburg Plumbing, Inc.; Fitzgerald Lighting & Maintenance; Five Oaks Nursing Center; Flagship Athletic Club; Fleiscmann Supply Co., Inc.; Fleming Water Conditioning; Flo's Attic, Inc.; Florida Briefcase; Florida Farm Bureau Federation; Florida Fruit & Vegetable Assn.; Florida Marking Products, Inc.; Florida Stainless Fabricators; Floridian Plumbing, Inc.; Florids Island Foods, Inc.; Flour Corp.; Flower City Restaurant Service, Inc.; Flower Depots International; Flowers By Lily; Flowers by Lou; Flynn Plumbing Co.; Foliage Design Systems, Inc.; Folk Oil Co. Inc.; Food Equipment Repair; Food Equipment Sales & Marketing; Food Equipment Services; Food Equipment Suppliers, Inc.; Food Marketing Institute; Food Master's Inc.; Food-N-Fuel, Inc.; Footaction USA; Foothill Beverage Co.; Footware Distributors and Retailers of America; Ford's Produce Company; Forms and Supplies Unlimited, Inc.; Forte Hotels, Inc.; Fortress S&L, Inc.; Foster, Conant & Associates, Inc.;

Fostoria Restaurants, Inc.; Four Corner Tacos, Inc.; Four Season's Produce, Inc.; Four Star Printing; Fourshee Building Supply; Fox Claims; Fox Excavating Inc.; Foxhills Resort (Mishicot, WI); Foxx Industries, Inc.; Fraden's Produce, Inc.; Fragale Plumbing, Heating & Cooling; Fran's Restaurant; Franco French Baking Company Sparks; Francorp, Inc.; Frank Castles & Associates; Frank Conti Contracting; Frank Gargillo & Son, Inc.; Frank L. Bartko Inc.; Frank's & Co., Inc.; Frank's Memorial Drive, Inc.; Frank's Sheetmetal, Inc.; Frankstown Fish Co., Inc.; Fred Olivieri Construction Co.; Freeman Construction & Painting Co.; Freeman's Flowers, Inc.; French Pisa, Inc.; Fresh Food Service; Fricke & Oliver, Inc.; Friend Laboratory Inc.; Friendly Ice Cream Corporation; Frisbie Management, Inc.; Fritzl's Restaurant, Bar, and Banquet House; Frolic Company; Frontier Landscape, Inc.; Fruit Distributors, Inc.; Fugate Enterprises; Fuhr & Sons Electric, Inc.; Fullmead Capriotti Enterprises; G & B Wilson, Inc.; G & J Restaurant Corporation; G. Edwin Pidcock Co.; G. Keith Smith, Inc.; G.A. Enterprises, Inc.; G.D. Smith, Inc.; G.D.B., Inc.; G.F. Bohman Assoc. Inc.; G.F.M. Inc.; G.H. Gazaway & Sons; G.M. Industrial Inc.; Gaechter Outdoor Advertising; Galasso's Bakery; Galaxy Catering, Inc.; Galliker Dairy Company; Garden Gate Nursery & Florist, Inc.; Garden of Eves; Garden Ridge; Gardwell Manufacturing Corp.; Garret Plumbing, Inc.; Garrett's Restaurant; Garrison & Associates Adv.; Garry's Plumbing, Heating & Air Conditioning.

Gary Anzalone; Gary's Printing; Gates Enterprises; Gateway Industrial Medical Clinic; Gateway Promotions; Gateway Refrigeration Service; Gateway Smorgasbord; Gavulic Florist Mart; Gaylord, Inc.; Greater Syracuse Chamber of Commerce; Gehrig Enterprises; Gene A. Wagner Plumbing Co., Inc.; Gene's Place to Dine; General Air Service and Supply; General Mfg. Inc.; General Mills, Inc.; General Mills Restaurants; General Plumbing Co.; General Supply Co., Inc.; General Window Cleaning Co.; Genesco, Inc.; Genesee Farms Dairy Mart; Genesee Refrigeration, Inc.; Genesis Property and Landscape Management Service Inc.; Geo Erickson Esq.; George Burke Seafood Sales. Ltd.; George E. Logue, Inc.; George Plumbing Co., Inc.; George Thomas Inc.; George's Excavating, Inc.; Georges Executive, Inc.; Gettel Enterprises; Gianulias Property Management Company; Gibby's Steaks & Seafood; Gibson Electrical Contracting, Inc.; Gibson's Discount Centers, Inc.; Gibsonia Flower Shop; Gilbert Heating & A.C., Inc.; Giles Engineering Association, Inc.; Gillette Aid Conditioning Co., Inc.; Gillette Dairy of the Black Hills Inc.; Gilley's Family Restaurant; Ginnings Company; Glacier Park, Inc.; Gladden Enterprises Inc.; Glass Pro; Glass Wholesale, Inc.; Glassmere Fuel Service, Inc.; Gleason Refrigeration Service, Inc.; Glen Carbonic Gas Co.; Glenns Commercial Service, Inc.; Glenville Queen, Inc.; GMBS, Inc.; GMI Financial Group, Inc.; GMK, Inc.; Gold Coast Fire Equipment; Gold Country Foods Inc.; Gold Star Chili, Inc.; Golden Arch Enterprises; Golden Corral; Golden Foods, Inc.

Golden Ram; Goldsmith Produce Co.; Goltry Management Consultants; Good Times Concepts, Ltd.; Goodrich Dairy Co., Inc.; Gordon L. Seaman, Inc.; Governed Air Inc.; Grable Plumbing Company, Inc.; Grace, Shursen, Moore & Associates, Inc.; Graceton Industries; Graf Plumbing, Inc.; Graffam Brothers; Gramlich Insurance Agency Inc.; Grand Central Sanitation, Inc.; Grand Haven (MI) Association of Commerce & Industry; Grand Openings Dallas, Inc.; Grande Enterprises Inc.; Grandpa's; Grat Valley; Gravel Enterprises Inc.; Gray Air Conditioning, Inc.; Grazzini Brothers & Company; Grease Be Gone, Inc.; Great American Cookie Co., Inc.; Great Lakes Dining; Greater Chicago Culligan Water Conditioning; Green Acres Landscaping; Green Concrete, Inc.; Green Earth; Green Giant; Green Grass, Inc.; Green Horizon, Inc.; Green Mountain Chiropractic; Green Shingle Restaurant; Greenery, Inc.; Greenline Landscaping & Maintenance; Greenscape Inc.; Greenview Mgf. Co.; Greenwood Ice Cream Company, Ltd.; Greer Sheet Metal Works; Greg Gummensah; Gregg O. Lehman; Gregor Jonsson, Inc.; Gregory Electric, Inc.; Gregory's Restaurants; Grelak Mechanical, Inc.; Grey Advertising Inc.; Grey Directory Marketing, Inc.; Greyhound Exposition Services, Inc.; Greyhound Leisure Services, Inc.; Griffin Agency; Grimes Plumbing, Inc.; Grinders & Such, Inc.; Grisham Fast Foods; Grist Mill Restaurant, Inc.; Grocery Manufacturers of America; Grog Restaurant; Gromac Corporation; Grossfire Mfg. Co.; Grossinger & Heller Agency—Insurance; Grotta Pizza, Inc.;

Group Hanover, Inc.; Guardian Fire Protection Service, Inc.; Guest Carbonic, Inc.; Gulf Fresh Seafood, Inc.; Gulf Publishing Co., Inc.; Gwinnett Chamber of Commerce; H & R Roofing of South Dakota, Inc.; H&R Block; H&R Block; Haagan Dasz; Hadwin Enterprises, Inc.; Hagan & Hagan Inc.; Half Time Restaurant (Palto Alto, CA); HalJohn; Halliburton; Hallmark Cards, Inc.; Hallrich, Inc.; Hamick Insurance Services, Inc.; Hamilton Farm Equipment Center, Inc.; Hamilton Manor Nursing Home; Hampton Inn (Amherst, NY); Hampton Inn (Aurora, CO); Hampton Inn (Colorado Springs, CO); Hampton Inn (Englewood, CO); Hampton Inn (Hampton, VA); Hampton Inn (Kissimmee, FL); Hampton Inn (Mesa, AZ); Hampton Inn (Pueblo, CO); Hampton Inn (Worcester, MA); Hampton Inn Airline Highway (Baton Rouge, LA); Hampton Inn College Drive (Baton Rouge, LA); Hampton Inn East (Indianapolis, IN); Hampton Inn Northwest (Indianapolis, IN); Hampton Inns; Hamrick Insurance Services, Inc.; Handee Marts, Inc.; Hank's Farm Restaurant; Happy Chef Systems; Inc.; Hardee Irrigation & Landscape, Inc.; Hardees; Hardin Signs, Inc.; Harding's Restaurant; Harlan & Associates; Harlow Orthopedics, Ltd.; Harman Management Corporation; Harmon Industries; Harold & Sons Repair Service; Harper Construction Co., Inc.; Harper Lock & Key Service; Harper Pizza Huts; Harrison Ready Mix Concrete & Supply Co., Inc.; Harry O Electric Corp.; Harry T. Pitts Electric Company; Hart Hotels, Inc. (Buffalo, NY); Hartz Chicken, Inc.; Hatcher-Sayer, Inc.; Hatfield Electrical, Inc.; Hathcock Roofing & Remodeling Co., Inc.; Hattiesburg Paint & Decorating, Inc.; Hausman Bus Sales; Have Fun, Inc.;

Hawkins Commercial Appliance Service; Hawley Landscape, Design and Maintenance; Hayward Electric Co.; HBG Enterprises Inc.; Health Smart Products, Inc.; Healthcare Cost Consultants, Inc.; Healthcare Equity Action League; Heartland Beverage Distributor; Hearty-Virginia, Inc.; Hedges Landscaping; Hefcam Inc.; Hefferman Properties, Inc. (St. Simons Island, GA); Helbing's Sup-

ply, Inc.; Heller Construction; Hellery's Carbonic, Inc.; Hello Direct, Inc.; Help Repair & Maintenance Corporation; Hempel Management; Hendrick's Florist; Henry Sign Systems, Inc.; Henry Swade Plumbing, Inc.; Herbert Kunstadt Associates; Heritage Landscape, Service Inc.; Herr Foods Inc.; Herynk's Greenhouse & Nursery; Heslin Business Services, Inc.; Heuton Dailey Monson Guncheon Corporation; Hi-Lite Janitorial; Hi-Tech Plumbing Contractors, Inc.; Hifa's Produce Market; High Country Foods, Inc.; High Tech Systems & Equipment; Highland Banking Co., Inc.; Highland Farm B & B; Highland General Maintenance, Inc.; Highlight Electric, Inc.; Hight Service Co., Inc.; Hightech Signs; Hill Country Dairies; Hill Sign Co.; Hillcrest Baptist Medical Center; Hills Stores Company; Hillside Dairy Co.; HIS Associates (St. Simons Island, GA); Hite Security, Inc.; Hively Fartm & Nursery, Inc.; HJ Bell Restaurants, Inc.; HLC Associates Inc. (St. Simons Island, GA); HMD Group; Ho Sum Trading Ltd.; Hofer's Auto Repair; Hoffco Signs & Industrial Markings, Inc.; Hoffman Machine Shop, Inc.; HoJo Inn (Richmond, VA); HoJo Inn (West Palm Beach, FL); Holiday Inn; Holiday Inn (Alexandria, VA); Holiday Inn (Amherst, NY); Holiday Inn (Bethesda, MD); Holiday Inn (Bridgeport, NJ); Holiday Inn (Corbin, KY);

Holiday Inn (Covington, LA); Holiday Inn (Craig, CO); Holiday Inn (DeSoto, TX); Holiday Inn (Elyria, OH); Holiday Inn (Emporia, VA) Holiday Inn (Hampton, VA); Holiday Inn (Hardeeville, SC); Holiday Inn (Holyoke, MA); Holiday Inn (Knoxville N.W., TN); Holiday Inn (Laguna Hills, CA); Holiday Inn (Oshkosh, WI); Holiday Inn (Palo Alto, CA); Holiday Inn (Pasadena, CA); Holiday Inn (Portsmouth, OH); Holiday Inn (Provo, UT); Holiday Inn (Roanoke Rapids, NC); Holiday Inn (Schenectady, NY); Holiday Inn (Shreveport, LA); Holiday Inn (Statesboro, GA); Holiday Inn (Steamboat Springs, CO); Holiday Inn (Williamsburg, KY); Holiday Inn (Winchester, KY); Holiday Inn Allentown (Lehigh, PA); Holiday Inn Buffalo International Airport (Cheektowaga, NY); Holiday Inn Civic Center (Monroe, LA); Holiday Inn Clinton (Clinton, NJ); Holiday Inn Convention Center (Alexandria, LA); Holiday Inn Dallas Southwest (Duncanville, TX); Holiday Inn Dallas North Park (Dallas, TX); Holiday Inn (Danbury, CT); Holiday Inn Downtown (Buffalo, NY); Holiday Inn Express (Carrollton, KY); Holiday Inn Florence (Florence, SC); Holiday Inn Gateway (Cheektowaga, NY); Holiday Inn Gateway Center (Flint, MI); Holiday Inn Holidome (Shreveport, LA); Holiday Inn Homewood (Birmingham, AL); Holiday Inn Houston East (Houston, TX); Holiday Inn—James Rice; Holiday Inn Main Gate East (Orlando, FL); Holiday Inn Matteson (Matteson, IL); Holiday Inn Midtown (Savannah, GA); Holiday Inn Mt. Kisco (Mt. Kisco, NY); Holiday Inn NASA (Houston, TX); Holiday Inn Northwest Plazas (San Antonio, TX); Holiday Inn South (Savannah, GA); Holiday Inn—Steve Arrison; Holiday Inn Sunspree Resort (Lake Buena Vista, FL); Holiday Inn Universal Studios Main Entrance (Orlando, FL); Holiday Inn Worldwide; Holiday Inn Youngstown North Metroplex (Girard, OH); Holiday Painting; Holly Outdoor, Inc.; Holly's Inc.; Holmen Pumping Service; Holt County Pizza, Inc.; Holt Management; Home Solutions Systems Corporation; Home Technology Healthcare, Inc.; Homewood Suites; Homewood Suites (Jacksonville, FL);

Homewood Suites (Kissimmee, FL); Homewood Suites (San Jose, CA); Homewood Suites (Savannah, GA); Homewood Suites (Tukwila, WA); Homestead Kitchen; Honey Creek Inn; Hooshang Tafazoli; Hoosier Oil Co.; Hooters of America, Inc.; Horizon Restaurants, Inc.; Hormel Foods Corporation; Horsehoe Acres Nursery; Hospital Forms Services of Az Inc.; Hospitality Properties; Hospitality Syrcus; Host Marriott Corporation; Houston Equipment Company; Howard Johnson (Elizabethtown, KY); Howard Johnson B-N-B (Erie, PA); Howard Johnson Franchise Systems, Inc. Howard Johnson Hotel (Alexandria, VA); Howard Johnson Hotel (Daytona Beach Shores, FL); Howard Johnson Hotel (Miami, FL); Howard Johnson Lodge (Fredericksburg, VA); Howard Johnson Lodge (Miami, FL); Howard Johnson Lodge (Pittsburgh, PA); Howard Johnson Park Square Inn; Howard Paving, Inc.; Howell's Typewriters, Inc.; HQSC Management, Inc.; HRB Associates, Inc.; Hub Plumbing Co., Inc.; Hubbard Plumbing & Drain Cleaning, Inc.; Hubbell Enterprises, Inc.; Hubbell House.; Hudsdon Valley RegionCorp.; Hudson Armored Car.; Hugh Morris; Hughes Advertising; Hughes Beverage Systems; Hughes Pizza Corporation; Humana, Inc.; Hunt Tractor Incorporated; Hunter Martin & Associates, Inc. Hurricane Fence Co., Inc.; Hurst Office Suppliers; Hutston Enterprises; Hy's Steakhouse; Hy-Point Dairy Farms, Inc.; Hydrolawn Company; Hydrotek International, Inc.; I.M.S.; I.S. Rest/Bar Supply Co.; IAMFES; Illinois Fiesta Inc.; Illinois Food Operations, Inc.; Illinois Pizza Company, Inc.; Illinois Sprinkler; Image International; Imperial Dist.; Imperial Plants, Inc.;

Imperial Produce Co.; IMR, Inc.; In-N-Out Burger; Independent Bakers Association; Indian Mound Smorgasboard; Indian Valley Camping Center Inc.; Indian Black Expo; Indiana Pizza Co., Inc.; Indianapolis Chamber of Commerce; Industrial Catering, Inc.; Industrial Electric Service; Industrial Equipment to McDee Services; Industrial Maintenance Systems, Inc.; Industrial Sheet Metal, Inc.; Ink Well of America, Inc.; Inland Electric Co., Inc.; Inmack Foods Inc.; Inne's Price Jones, Inc.; Innovation Support, Inc.; Instant Jungle, Inc.; Institutional Equipment, Inc.; Insurance Associates of Texas; Insurance Exchange, Inc.; Integrated Medical Delivery Corporation; Interface Systems, Inc.; Interior Channel, Inc.; Interior Perspectives, Inc.; International Association of Amusement Parks and Attractions; International Association of Plastics Distributors; International Foodservice Distributors Association; International Mass Retail Association; International Minute Press; International Seafoods of Alaska, Inc.; International Sports Properties, Inc.; International Warehouse; International Wholesale Furniture Association; Interstate Mechanical Services, Inc.; Interstate Truckstops; Intimate Affairs Catering; Inventory Technology, Inc.; Inventure; Investment Property, Inc. of Lexington; Irish Eyes Protection Agency, Inc.; Island Oasis; Israel Enterprises; Ivie Electric Service; J & H Produce Co.; J & J Stop 'N Shop, Inc.; J & J Flock Products, Inc.; J & J Burger; J & J Sales, Inc.; J & J Installation, Inc.; J & L Dairy; J & M Construction; J & J Expandable Enterprises, Inc.; J. Anthony's Refrigeration, Inc.; J. Balan Advertising Graphics, Inc.; J. Gribbon, Inc.; J. Scott Management Corporation; J.A. Sulluland Inc.; J.B. Enterprise;

J.C. Penney Company, Inc.; J.J.R. Management Corporation; J.M. Woodworks. Inc., J.P.M. Inc.; J.Q. Adams Enterprises; Inc.; J.R. Adams & Associates, Inc.; J.T. Jackson Co. Realtor; J-BACA; J&k Partnership; J&R Services; Jabalt, Inc.; Jack B. Inc.; Jack F. Studebaker; Jack in the Box; Jack Spack Septic Tank Service, Inc.; Jack's Heating, Air-Conditioning & Plumbing, Inc.; Jackson's Greenhouse & Garden Center; Jacobs Pub & Restaurant; Jade Range, Inc.; Jam Plastics; Jamand Corporation; James & Co.; James Coyle Plumbing & Heating Mechanical Contractors; James Enterprises; Jame G. Gasta & Sons; James III Restaurant; Jamesway Corp.; Jamies Drive-thru Dairy; Janell Inc.; Jay C Sportswear Ltd.; JDP Enterprises, Inc.; Jeckles in Hyde Park; Jeff Bottling Co., Inc.; Jefferson Development; Jenilyn's Creations/Interior Plantscapes; Jenkins Chrysler Plymouth Dodge, Inc.; Jerkins Food Service Equipment & Supplies; Jensen Sales Co.; Jermar Foods Inc.; Jerry's Electrical Contracting, Inc.; Jerry's Heating & Refrigeration, Inc.; Jerry's Tax & Accounting Services; Jesse Smith Construction Company; Jet Sanitation Service Co.; JFD Tube & Coil Products, Inc.; Jim Barnes Enterprises, Inc.; Jim Davis & Son Plumbing; Jim Hill Service Co.; Jim Moore Landscaping; Jim Rulli Coil Cleaning; Jim S. Dupuy; Jimmie Kramers The Peanut Bar, Inc.; Jk Enterprise; JLO Inc.; JMC Management, Inc.; JMS Enterprises, Inc.; JO-AD Industries, Inc.; Jodida Enterprises, Inc.; Joe Bertin Carpet Cleaners, Inc.; Joe Fazio Bakery, Inc.; Joe Lasita, Inc.;

Joggerst Florist; John C. Brendla & Associates, Inc.; John C. Collins & Associates,; John E. Kelly & Son; John Goddard Produce, Inc.; John Gross & Co.; John Kremer Excelsior; John M. Pettit Co., Inc.; John's Restaurant Equipment Repair Service; Johnny's Pumping Service; Johns Cutlery; Johnson Ezell Cap; Johnson Lumber Co. Inc.; Johnson Mechanical Contr., Inc.; Johnson Santi., and Farms; Johnstone Food's, Inc.; Johnstons Gallery Ltd.; Joliet Window Cleaning Service; Jomarc Commercial Food Equipment, Inc.; Jonbro, Inc.; Joseph A. Schudt & Associates; Joseph J. Magnolia, Inc.; Joseph Whain Plumbing Heating; JPS, Inc T/A Massies Restaurant; JRS, Inc.; JRS, Inc.; JTS Services, Inc. Julian Speer Co.; Jupa Foods Inc.; K & K Foods, Inc.; K J Electrical Services, Inc.; K-21 Corp. of Marion; K-K Resaurants, Inc.; K-Marc Enterprises, Inc.; K-Mart Corporation; K&N Pizza Huts, Inc.; Kaminsky. Inc.; Kampgrounds of America, Inc.; Kanekoa Enterprises Inc.; Karecor, Inc.; Kashville KOA Kampgrounds; Kawara Inc.; Kazam Corp.; KC Pisa, Inc.; Kedvill, Inc. and Wescer, Inc.; Keith Ventures; Ken's Kustom Korner, Inc.; Kenco Restaurants, Inc.; Kendall House, Inc.; Kenneth's Design Group Inc.; Kent Construction, Inc.; Kent Farms Inc.; Kentuckiana Comfort Center, Inc.; Kentucky Bell, Inc.; Key Graphics, Inc.; Kenstone Lock Service, Inc.; Keystone Shortway 76, Inc.; Keystone-Superior; KFC of ADA and Kenton, Ohio; KFC of Frankfort, Inc.; Kid's World Creative School & Day Care;

Killington Ltd.; Kim's Enterprise; Kimray, Inc.; Kimsko Corp.; Kimsko Corp.; Kimura Nursery, Inc.; Kincer's Inc.; KinderCare; Kindra Environmental Enterprises, Inc.; King Kong Building Services; Kingmex Foods; Kingswood Nurseries, Inc.; Kingsley Cartridge Recycling; Kinx Construction Co.; Kirby Electric; Kirtac, Inc.; Kirtac, Inc.; Kistler-O'Brien Fire Protection; Kitayama Bros. Inc.; Kitchen Klean, Inc.; Klein Enterprises, Inc.; Knightes Enterprises Inc.; Knights in Control; Knorr Enterprises; Knox Services, Inc.; Koch Industries; Kohs Enterprises Inc.; Kool Kleen Maintenance; Koonse Food Equipment Service; Koorseen Protection Services, Inc.; Kopel, Inc.; Korby Construction Co.; KPHO-TV; KPM Landscape Management; KPTOO, Inc.; KRB/KlearKast

Inc.; Kritter Kraft; Kronran Corporation; Krystal Co.; KTPK-FM Radio-Topeka Kuehne's Plantscape, Inc.; Kunz & Co.; Kunz's 4th & Market; Kupfer & Co., Inc.; Kurt's Inn, Inc.; Kurtz Mfg., Inc.; Kwik Kopy Corp.; Kwik Kopy Printing Advisory Council; Kyana Industrial Supply; L & B Foods, Inc.; L & M Appliance; L & S Restaurant Supply; L.A. Electric; L.B. Service; L.R. Bell Hazard, Inc.; L.S. Williams Electrical Company; L-K Enterprises; La Capannia Restaurant; La Grange Business Association; La Grotta Restaurant; La Sal Oil Co. Inc.;

Lacies 106 Grill and Bar; Lafayette Glass Co., Inc.; Lago & Sons Dairy, Inc.; Lake Land Advertising; Lamb & One Industries; Landco Corp.; Landmark Title, Inc.; Landrum Produce; Landscape Design & Construction, Inc.; Landscape Engineers, Inc.; Landscapes Etcetera; Lane Equipment Company; Lang Fine Equipment Corp.; Langley & McDonald; Lanrich, Inc.; Larkin's Food's, Inc.; Laroy Thomas, Inc.; Larry's Welding Supply, Inc.; Lasalle Grill; Laser Connection; Laser Life; Laser Security Response, Inc.; Last Chance Saloon; Latham & Associates, Inc.; Latta Road Nursing Home; Lauderdale Flower Shop; Law Offices of Deborah Steelman; Lawn and Shrub, Inc.; Lawn Masters Lawn Care, Inc.; Layer Electric Service, Inc.; LDD Food Enterprises, Inc.; LDS, Inc.; Leadership Development Associates, Inc.; Leasure Ent.; Ledo Pizza, Frederick; Ledo Pizza, Germantown; Ledo Pizza, Leesburg; Lee Foods, Inc.; Lee Seed Farm Inc.; Lee's Plumbing; Lee's Sharp Coat; Leedar Inc.; Leesco, Inc.; Legend Foods, Inc.; Legend Foods, Inc.; Legro & Associates; Lehman's Inc. of Anderson; Lennox Research, Inc.; Lenoir County Health Cost Containment Coalition; LeRan Corp. DBA Hardee's; Les Jones Roofing, Inc.; Levey Enterprises; Levy Properties; Lewis Foods, Inc.; Lexington Investments Inc.; Liberty Pizza, Inc.; Lickity-Split; Lied's Nursery Co., Inc.; Light-Milling Co. Inc.; Limehouse Produce Co., Inc.; Lincoln Precision Machining Company;

Lincoln Tile Company; Lindburg's Pharmacy; Linden R. Welsh, CPA; Lindhardt Refrigeration, Inc.; Lindon Foods Inc.; Linens of the Week; Linoleum & Carpet Center; Lippert, Inc.; Liquid Investments, Inc.; LIRE, Inc; Litehouse, Inc.; Little Foods, Inc.; Little Guy Carpet Cleaning; Little Rock Maintenance & Service, Inc.; Livingstone & Murray, Inc.; LJS Wood Working; Lloyd's Refrigeration, Inc.; Lobdell Management; Lobster Boat, Inc.; Lobster Harvest; Lockwood/McKinney Co. Inc.; Loffredo Fresh Produce Co., Inc.; Lombardi's Seafood, Inc.; London Grille; Long John Silver's, Inc.; Lorraine Marketing, Inc.; Loudon Air, Inc.; Louis C. Mathews Seafood, Inc.; Louisiana Restaurant Association; Louisville Area Chamber of Commerce; LPG Enterprises, Inc.; Lubell Inc.; Luck-ees of Pinellas Inc.; LucWork Enterprises, Inc.; Luihn Food, Syst.; LuLu Wellington's; LWD, Inc.; Lyden Co. dba Fastcheck Food Mart; Lyon/Bruguier; M & G Corporation; M & M Wall Designs, Inc.; M & M Smart Corporation; M & S Tropical Fish; M & S Associates; M.B. & J. Industries; M.H. King Co.; M.P. Barden & Sons, Inc.; M.R. Ellis & Sons; M.S.U Foods, Inc.; M-B Sales; MAACO Enterprises, Inc.; Mac-Lewis Enterprises Inc.; MacGregor Smith Blueprinters, Inc.; Mackinaw Area Tourist Bureau; Madison Mexican Inc.; Madison Window Cleaning Co., Inc.; Madonna Burchett Gifts; Magee Sign Service, Inc.; Magnox Inc.; Magnum Force Protection Corporation; Mail Boxes Etc.

Mail Boxes, Etc. #803; Main Street Enterprises, Inc.; Main Street USA, Inc.; Maintenance Group Management; Maisonette Restaurant Group; Maki Heating and Air Conditioning, Inc.; Malcom M. Knapp, Inc.; Mallar Finishing; Mallscapes, Inc.; Malta Enterprises, Inc.; Maly Multi-Services, Inc.; Maneval, Inc.; Mar-B Partnership; Marblelife of Greater Orlando; Marburn Stores, Inc.; Marcelita's Restaurant; Marco's Mexican Restaurant; Margaritas Management Group; Marianne Inc; Marietta Coffee Service, Inc.; Marin Management Co.; Marina Village Inn; Marine Iron & Ship Building Co.; Marinko's Firehouse; Marino Cutlery, Inc.; Marion Court Room; Marion Music, Inc.; Marion Niedhamer Produce, Inc.; Mark Parrett Enterprises, Inc.; Mark Twain Dinette; Market Displays, Inc.; Marketing Services by Vectra, Inc.; Markle-Smith, Inc.; Markley Motors Inc.; Markor Enterprise, Inc.; Marks Commercial Services, Inc.; Marotta & Sons Plumbing & Heating Contractors Corporation; Mariott International, Inc.; Marshall Scott Enterprises, Inc.; Marshall Smith-Remodeling; Marson & Marson Lumber, Inc.; Martha's Vineyard Restaurant; Martin Mechanical Construction Inc.; Martin Microwave Sales and Service; Martin's Window Cleaning Corp.; Marval Investments, Inc.; Marvin L. Morse; Mary and Ted's Family Restaurant; Mary Jean's Floral Basket; Marygrove Awning Co.; Maryland Coast Pizza Hut, Inc.; MastercastLtd.; Matagrand, Inc.; Matrix Engineering, Inc.; Maverick Sonic Corp.; May Department Stores; Mayfield Dairy Farms, Inc.; Mazzio's Corporation; McAnderson's, Inc.; McCormick & Company, Inc.; McCoy Auction Co., Inc.;

McCullough Plumbing, Inc.; McDee Services; McDonald's of Aurora; McDonald's of Butler; McDonald's of Columbia; McDonald's of Conway; McDonald's of Gladstone; McDonald's of Hermiston & Pendleton; McDonald's of Ottawa; McDonald's of Tallgrass; McDonald's of Williamsburg; McDonald's-FMI; McGuffey's Restaurants, Inc.; McHugh Plumbing and Heating; McKinney Motors; McKinney Waste Disposal; McLean Foods Inc.; McLemore Markets; McLemore Markets; McMann Management Co.; McManus Paint and Body Shop, Inc.; McMullen, Electric, Inc.; McPhillips Plumbing, Heating & Air Conditioning Co.; Mechanical Systems Service; Medical Executive Recruiters; Medical Marketing Concepts; Medical Technology Development, Inc.; MedTrac, Inc.; Megeath Office Suppliers; Mehle Enterprises; Mel Nace Insurance Agency, Inc.; Mel-Lin Enterprises; Melina True Value Hardware Inc.; Memorial Medical Center & Cancer Institute; Memphis Hockey, Inc.; Mendota Area Chamber of Commerce; Mericon Industries, Inc.; Merritt Island Air & Heating, Inc.; Mesa Beverage Co., Inc.; Mesa Distributing Co., Inc.; Metal Concepts, Inc.; Metcalf Landscape Contractors, Inc.; Metro Appliance Service; Metro Heating & Cooling, Inc.; Metro Hotels, Inc.; Metro Plumbing; Metro Safe Co., Inc.; Metro-Detroit Sign, Inc.; Metroplex Sharp Knife Service, Inc.; Metropolitan Armored Car, Inc.; Metropolitan Contracting Co., Inc.; Metropolitan Office Equipment Co., Inc.; Metz Continental Cuisine & Catering; Mexi-Bell Restaurants Inc.; Mexican Restaurants Ventures, Inc.; Mexico City Cafe; MEXR, Inc.; Meyer, Inc.; MGA Film and Video Production Services; MGHG; MGV America, Inc.;

MHC Inc.; Miami Valley Soccer Limited Partnership; Micale Management Corp.; Michael J. Losik & Associates, Inc.; Michael Turner & Associates; Michigan Pizza Hut Inc.; Michigan Pizza Service Co., Inc.; Michigan Restaurant Assoc.; Micro Controls Corporation; Microwave Specialities, Inc.; Mid Ohio Restaurant Mgmt. Group; Mid State Electric of Ocala, Inc.; Mid/West Fresh Foods, Inc.; Mid-State Iron Works Inc.; Middendorf's Restaurant; Middle Atlantic Wholesalers Association; Middle Tennessee Restaurant, Inc.; Middletown Taco Inc.; Midwest Cutlery Service; Midwest Fresh Foods, Inc. Blumberg Office Supply, Inc.; Midwest Gates Inc.; Midwest Industries, Inc.; Midwest Marko; Midwest Seafood Supply Co.; Midwest Seafoods, Inc.; Midwest Uncuts, Inc.; Midwestern Regional Medical Center; Midwestern Regional Outpatient Clinic; Mike Sokol Electric Co.; Mike's on the Avenue; Mikel Simons; Millard Machine, Inc.; Miller Bearings, Inc.; Miller Bros. Concrete; Miller Electric Co.; Miller Floral Co., Inc., Miller's Custom Fabrications; Mills-Anderson Opticians, Inc.; Milwaukee Plate Glass Co.; Mini-Food Stores, Inc.; Mini-Giants, Inc.; Minne Co Venture; Miracle Ear Center; Miranda Sales and Service, Inc.; Mirob Management; Miskovic Research & Consulting; Missjac Inc.; Missouri Fiesta Inc.; Missouri Mexican Products, Inc.; Missouri Restaurant Association; MJ Riker Management; MK Foods Inc.; Modern Gas Co., Inc.; Modern Patterns, Inc.; Moelk Sales, Inc.; Molly Maid, Inc.; Momentum, Inc.; Momax Food Inc.; Monarch Laundry & Cleaning Service; Monastero's Ristorante; Moncada & Associates;

Monogram Shoppe; Montgomery Development Corporation; Montgomery War & Company; Monty Mex Corp.; Monty's Environmental Service, Inc.; Moore Push-Pin Co.; Moran Industries, Inc.; Morgan, Inc.; Morrison Restaurants, Inc.; Morse & Co., CPA; MOS Camp Inc.; Moshner Management; Moss Inc.; Motor Coach Industries International; Mount Mansfield Co.; Mountain Lakes Resort Inc.; Mountain States Asphalt Paving, Inc.; Mountain Top Food Service, Inc.; Mountaineer Services Co.; Mountaintop Enterprises/Restaurant Resources; MP Plumbing Co., Inc.; Mr. O's Cabinet Shop; Mr. Petrol's Pantry, Inc.; Mt. Lebanon Office Equipment Co., Inc.; MTB Inc.; Mullally Brothers, Inc.; Mullins Food Products, Inc.; Mullins Surveying and Maping; Murphy Produce, Inc.; Murphy's Grill; Musair, Inc.; Music Biz Enterprises, Inc.; Muth Electric, Inc.; MW Associates, Inc.; MWM Enterprises; Myer's Plumbing & Heating, Inc.; Myron Deetz Enterprises, Inc.; N.J. Contracting, Inc.; N.J. Wilson Contracting, Inc.; Naegele Outdoor Advertising; Nafaiger Ice Cream Co.; Najim, Inc.; Nancor Corp.; Nashville Tent and Awning; Nass Service Co., Inc.; National Air Carrier Association, Inc.; National Association of Wholesale Independent Distributors; National Association for the Self Employed; National Association of Manufacturers; National Association of Aluminum Distributors; National Association of Sign Supply Distributors; National Association of Sporting Goods Wholesalers; National Association of Temporary Services; National Association of Wholesale-Distributors; National Automobile Dealers Assn.; National Battery Sales; National Business Machines, Inc.; National Cassette Services, Inc.; National Child Care Assoc.; National Council of Agricultural Employers; National Council of Chain Restaurants;

National Distributor Systems; National Dynamics, Inc.; National Electric, Inc.; National Fastener Distributors Association; National Federation of Independent Business; National Hood & Duct; National Indexing Systems, Inc.; National Pizza Company; National Restaurant Association; National Retail Federation; National Scale & Equipment Co., Inc.; National Welding Supply Association; National-American Wholesale

Grocers' Association; Natron Corp.; Nature's Best Dairy; Nebraska Dairy Inc.; NEED Inc.; Nelson, Gillis & Smith; Nelson's Lamplighter, Inc.; NEMCO, Inc.; Netco Inc.; Nevada Banking Co.; New City Funding Inc.; New Day Window Cleaning; New Desert Produce, Inc.; New England Linen Supply Company, Inc.; New England Lobster House, Inc.; New England Suites Hotel; New Market Management Assoc.; New Vermont Creamery, Inc.; New-Belle Construction; New-Mad; Newman Lbr. Co; Newport Awning Co.; Newport Electric; Newport News Inn (Newport News, VA); Newton Pizza Hut, Inc.; Nicho Saenz & Sons; Nichols Foodservice, Inc.; Nichols Plumbing & Heating Co.; Nick's, Inc.; Nickell Orchard; Nicoletti Painting Co.; Nissjac Inc.; Noack Electric; Nobeef Corp.; Noe's Suburban Septic Service; Nor-Cal Beverage Co., Inc.; Nor-Cal Instant Sign Center, Inc.; Normandy Enterprises, Inc.; Norris & Samon Pump Service, Inc.; North American Mechanical, Inc.; North American Sales, Inc.; North Central Plastics, Inc.; North Coast Party Rentals; North County Plumbing, Inc.; North Dartmouth Taco Inc.; North Florida Refrigeration Inc.; North Idaho Immediate Care; North Idaho Pizza Hut', Inc.; North Shore Mechanical Contractors;

North State Cleaning Services; Northamerican Heating, Refrigeration & Airconditioning Wholesalers; Northbrook Hilton; Northeast Commercial Applicance Service, Inc.; Northeast Marketing Inc.; Northern Bottling Co.; Northfield Restaurant Corp.; Northlake Supply Company Inc.; Northridge Center Partnership; Northwest Financial Services; Northwest Fruit and Vegetable; Northwest Group Brokerage Company; Northwest Landscape Industries; Northwest Restaurant Group, Inc.; Northwestern Public Service Company; Norwald Restaurants, Inc.; Norwalk Furniture Corporation; Norwin Diner; Northwestern Restaurants Inc.; Nova Construction Co., Inc.; NOVUS Franchising, Inc.; Noyes Plumbing Co.; Nu-Steam; O'Neill Foods, Inc.; Oak Ridge Rentals; Oakcraft Inc.; OCAT, Inc.; Ocean Spray Cranberries, Inc.; Oceans Eleven Resorts, Inc.; Oceanside Associates; Oerther Foods, Inc.; Ohara & Sons; Ohio State Forwarding, Inc.; Ohio Valley Taco Corp.; OK Enterprises West, Inc.; Old Gatsby's Tavern Ltd.; Old South Mountain Inn; Old Storrowton Tavern; Olde Philadelphia Inn; Ole Bellco Inc.; Oliver Breweries Ltd.; Oliver's Restaurant Corp.; Olney Pizza Hut, Inc.; Olsten Corp.; Omaha Lancers; Omega Window Cleaning; Omni Management; On the Green Restaurant; Optima Financial Network; Oran McNeil, CPA; Orchard Foods Corp.; Orcoa Leasing Co.; Oregon Dairy Country Restaurant; Oregon Restaurant Association; Oretaco Inc.; Orient IV Restaurant; Original Grafts Inc.; Original Oyster House; Orlos & Co. Inc.; Orv's Appliance, Inc;

Osan Petrolium Co., Inc.; Otay Mesa Foods, Inc.; Ounce of Prevention Wellness Center; Outback Steakhouse; Owen Contract Service; Owl Enterprises; Oxford Healthcare; P.C. Management Co.; P.J. Enterprises, Inc.; Pacific Marine Sheet Metal Corporation; Palate Pleasers Caterers; Pamida, Inc.; PAR Enterprises, Inc.; Paradise & Assoc., Inc.; Paradise Byrne Corp., Paradise/Oroville McDonald's; Paradise Restaurant; Parke Resident Suites; Parochetti Enterprises, Inc.; Partnership of Basra & Sandhu; Partyka Resource Management Companies, Inc.; Paschen Management Corporation; Pasha Enterprises; Paul Puckett, Inc.; Paul Revere's Pizza; Paxson Oil Co.; Payatt Enterprises; Payless Shoe Source, Inc.; PDC Multimedia Productions; PDS Management, Inc.; Peeler Jersey Farms, Inc.; Pelletier Management Corporation; Pembro Industrial Consultants; Penguin Point Franchise Systems, Inc.; Penn Laurel Inn—Centre Care; Penn-Daniels, Inc.; Penn-Taco, Inc.; Penwood Point Restaurant; Pep-Boys; PepCom Industries, Inc.; Pepsi-Cola Allied Bottlers, Inc.; Pepsi-Cola Bottling Co. of Charlotte, Inc.; Pepsi-Cola Newburgh Bottling Co., Inc.; Pepsi Co.; Perfekta Inc.; Perlick Corporation; Perry Restaurant Group; Perrys Burg Restaurants, Inc.; Perrysburg Plumbing; Peru Pizza Co., Inc.; Pet Industry Distributors Association; Pete's Construction and Remodeling; Peter Nicastro Inc.; Peter Piper Pizza; Petroleum Marketers Association of America, Inc.; Petromark, Inc.; Petty Management Co.; Pewter Pot, Inc.; Pexa Huff, Inc.; Pezoid Management; Phil S. Bassa;

Phillips Brothers Restaurants; Photosound of Orlando, Inc.; Phyllis Solomon Executive Search; Pic-N-Pay Stores, Inc.; Pierco Sales; PII Affiliates Ltd.; Pike County Chamber of Commerce; Pillsbury; Pine Woodworking; Pinecrest Motel; Pioneer Steak House; Pixley Lumber Company; Pizza Co. Inc.; Pizza Hut Childerburg, Inc.; Pizza Hut Columbus, Inc.; Pizza Hut Daleville, Inc.; Pizza Hut Elba, Inc.; Pizza Hut Enterprise, Inc.; Pizza Hut Fort Wayne, Inc.; Pizza Hut Globe, Inc.; Pizza Hut Holbrook, Inc.; Pizza Hut Idaho, Inc.; Pizza Hut Jasper, Inc. Pizza Hut Kokomo, Inc.; Pizza Hut Laurens, Inc.; Pizza Hut Leveland, Inc.; Pizza Hut Manhattan Inc.; Pizza Hut Miami, Inc.; Pizza Hut Monmouth County; Pizza Hut Muleshoe, Inc.; Pizza Hut of Apache Junction, Inc.; Pizza Hut of Baxter Springs, Inc.; Pizza Hut Ozark, Inc.; Pizza Hut Payson, Inc.; Pizza Hut Plainview, Inc.; Pizza Hut Roanoke, Inc.; Pizza Hut Roswell, Inc.; Pizza Hut Ruidosa, Inc.; Pizza Hut South Valley, Inc.; Pizza Hut Springfield, Inc.; Pizza Hut Sumiton, Inc.; Pizza Hut Sylacauga, Inc.; Pizza Hut Talladega, Inc.; Pizza Hut Taylor, Inc.; Pizza Hut Uniontown, Inc.; Pizza Hut West Point, Inc.; Pizza Hut White Mountains, Inc.; Pizza Hut Wilmington, Inc.; Pizza Hut Winslow, Inc.; Pizza Hut Caldwell/Somerville; Pizza Pit, Ltd.; Pizzaco Joint Venture; Plains Creamery, Inc.; Plans Dairy Products; Plamondon Enterprises Inc.; Plant Technics, Inc.; Plantasia; Plastic Processors Inc.; Plaza Dine Inc.; Pleasant Valley Enterprises; Pleasanton Hotel Restaurant;

Plescher, Sibell, Migartz & Burns; Plymouth Taco Inc.; Pope's Locksmith & Safe Co.; Port Tack Restaurant; Portland Music Company; Post Oak Oil Co.; PPV, Inc.; Prairie Tool Co.; Pratt/Debartolo Assoc.; Pre-Press Company, Inc.; Precision Shapes, Inc.; Premier Cruise Lines, Ltd.; Prenco/Painting; Pressure King, Inc.; Pretzel Peddler; Price Brothers Realty, Inc.; Price Less Drug Stores; Prime Hospitality Corporation; Princeton Armored Service; Printmasters of Grand Rapids, L.L.C.; Pro Two Inc.; Pro-Blind Inc.; Professional Land Surveyors, Land Use and Zoning Consultants; Professional Mechanical Services; Professional Sports and Entertainment of Tennessee; Promus Hotels; Pruitt, Inc.; PTS, Inc.; Publishers Resource Group, Inc.; Pudgies Famous Chicken; Puigh Septic Tank Service, Inc.; Purity Confictionery Corp.; Q & D Plastics, Inc.; Q & D Plastics, Inc.; QPM, Inc.; Quality Express, Inc.; Quality Foods; Quality Fuels, Inc.; Quality Repair Service; Quality Shoe; Quality Water Enterprises; Quetaco, Inc.; Quick Print of Chicago, Inc.; Quick Sak Stores Inc.; Quicklan Lock and Alarm; Quincy Mexican, Inc.; R & C Produce Co., Inc.; R & G, Inc.; R & J Carpet Cleaning; R.B.T.A. Industries; R.E. Watson & Assoc., Inc.; R.E.G. Company, Inc.; R.J. Just; R.J. Waters & Associates, Inc.; R.J.M. & Associates; R.L. Stewart; R.T. Caesar Maintenance Service; R.V. Danza Plumbing & Heating, Inc.; R&L Foods Inc.; R&R Enterprises; R&R Ventures Inc.;

Rab Service, Inc; RAD Inc.; Rad-CAT, Radcliff Co., Inc.; Ragon Electric; Raley's; Rally's Hamburger Inc.; Ralph Jones Companies; Ramada, Inc.; Ramada Inn at the Airport (Windsor Locks, CT); Ramona Mortgage Corp.; Randy Baker Productions; Randy J. Opasnick Co.; Randy's Landscaping; Rank Leisure USA/Hard Rock Cafe International; Rapid-Air Refrigeration; Ratliff Metal Spinning Co. Inc.; Rattan by Byran Ashley; Raven Sound; Raymond H. Shelton, Inc; Raymond McNutt Inc.; Rayne Plumbing & Sewer Service, Inc.; Rays' A/C & Heating Co.; RDB Enterprises, Inc.; Reading PA Corp.; Real Clean Services; Real Estate Plus, Inc.; Reaveley Engineers & Associates, Inc.; Red Geranium Enterprises; Redd Realty Services; Reddick Enterprises; Redding Distributing Co.; Redwood Empire Restaurants, Inc.; Redwood Inn, Inc.; REE, Inc.; Reedy's Air Conditioning & Heating Service, Inc.; Refco Consultants, Inc.; Reflections Window Cleaning and Maintenance; Refrigeration Industries, Inc.; Regency Inns Management, Inc.; Regency Travel; Regent Investments, Inc.; Regian Advertising & P.R.; Regional Consultants; Regis Corporation; Reidsville Amigos Inc. Rejean J. Remillard Insurance Agency; Remarc Management, Inc.; Rembrandt Division of Den-Mat Corporation; Remsmit Inc.; Renta World; Resource Associates; Restaura, Inc.; Restaurant Association of Maryland; Restaurant Equipment Parts & Service, Inc.; Restaurant Income Properties; Restaurant Management Corporation; Restaurant Management Services; Restaurant Services, Inc.; Restaurant Specialties; Restaurant Management Co.;

RGR Foods, Inc.; Rhonda's Flower Service and Delivery; Ricardo's; Rice Growers Association of California; Rich Meat Service; Richard A. Hubbard Inc.; Richard Clark; Richard T. Coppoletti, M.D.; Richards Manufacturing and Services Corporation; Richman Gordon ½ Price Stores, Inc.; Richmond Enterprises, Inc.; Richmond Oxygen Company; Ridge Electric Motor Co., Inc.; Riggio's Restaurant; Ringmakers; Rittenhouse Management Corporation; Riverdale Texaco; Riviana Foods, Inc.; RLC Enterprises, Inc.; Robert B. Aikens & Associates, Inc.; Robert B. Young; Robert G. Gordon; Robert M. Coe, Inc.; Robert Mayfield; Robert R. Davis & Co., PC; Robert Zehndar 1990 Trust; Roberts Construction Company, Inc.; Roberts Dairy Company; Roberts Litho Supply Co; Roberts-McNutt Inc.; Robertson Performance Systems, Inc.; Robinson Farms; Robinson's Plumbing; Robrecht Produce Co.; Roch's Produce; Rocky Mountain Company-PMC Foods; Rocky Mountain Pizza Huts, Inc.; Roco Cartage & Delivery, Inc.; Rodel Commercial Tile Services, Inc.; Rok & Associates, Inc.; Roma Corporation; Romaine's Commercial Appliance Service; Ron's Window Service; Rooter King, Inc.; Rose Garden Nursery; Rose Paving & Sealcoating Co.; Rosemary Zimmermnan; Roses Stores, Inc.; Royal Bakery Inc.; Royal Electronics; Royal Foods Co., Inc.; Royal West Amusements, Inc.; Rub-A-Dub Washouse; Ruby Tuesday's Restaurant; Ruddell Engineering, Inc.; Rude's Home Furnishings; Rudolph Construction, Inc.; Russ Taco, Inc.; Russ' Restaurant; Russell Harrington Cutlery, Inc.; Russell Mellete & Assoc.;

Ruth's Chris Steak House; Rutledge Distributing, Inc.; Ryan Inc. Central; Ryan's

Family Steak House; Rybak Excavating & Contracting Inc.; S & M Pisa, Inc; S & S Refrigeration, Inc.; S & S Air Cond. & Heating, Inc.; S. Stephen Nakashima; S.A. Kennedy, Inc.; S.A. Restaurant Equipment Parts and Service Co., Inc.; S.D.R.G., Inc.; S.J. Electro Systems, Inc.; S.W. Oklahoma Pizza Corp.; Saatchi & Saatchi; Safety Equipment Distributors Association, Inc.; Salem Tools, Inc.; Sally St. Clair; Sama Plastics Corporation; San Diego Printers, L.P.; Sanford's Interior Plant Service; Sanitary Disposal & Recylcing, Inc.; Sansej, Inc.; Santa Cruz Brewing Co.; Santa Fe Concessions, Inc.; Santabell Inc.; Saraj Enterprises; Sardilli Produce & Dairy Co.; Satellite Shelter, Inc.; Satge House Inn; Savannah Bell, Inc.; Sawyer Harvesting; Schaeffer Precision Alignment; Schafer Systems; Schahet Hotels, Inc.; Schantini & Associates, Inc.; Scheffler Enterprises; Scheve Corporation; Schick Enterprises, Inc.; Schlotzsky's Restaurants; Schneiderman's Furniture; Schnell Systems; Schnip Development Corporation; Schoch Tile and Carpet Inc.; Schreiber Foods, Inc.; Schreiner's Restaurant Inc.; Schrelber Foods, Inc.; Schryver Associates, Inc./TA The Taco; Schubert Outdoor Advertising, Inc.; Schumacher Landscaping; Schwebke-Shiskin & Associates, Inc.; Scott Instruments Corporation; Scott MBA Corporation; SDI Construction, Inc.; Sea Breeze Roofing, Inc.; Sea Island Co—Cloister Hotel; Seacliff Inn Hotel; Seafood Resources Ltd.; Seal Tight Inc.; Seaman Restaurant Corporation;

Security One; Security Signal Devices, Inc.; SEDCO; Seila Co.; Seitz Office City; Selby's Commercial Kitchen; Seneca Tape & Label, Inc.; Sentry Foods; Sequoia Floral International; Service Master of Spokane, Inc.; Service Merchandise Co.; ServPro of Newberry; Servpro of Osceola County, Inc.; Shackleford's & Maxwell's, Inc.; Shangri-la RV Park; Sharp Porcelain Refinishing; Shaver Specialty Co., Inc.; Shaw West Industrial, Inc.; Shawnee Garment Mfg. Co.; Shearer & Associates; Sheesley's Sewer, Inc.; Shelburne Road Gulf; Sheraton; Sheraton Allentown Jetport; Sheraton Berkshire; Sheraton Sandusky Hotel (Sandusky, OH); Sherman Valley Nursery; Sheron Associates, Inc.; Shift-Rite Car Care, Inc.; Shiners Car Wash; Shingobee Builders, Inc.; Shonac Corporation; Shoney's, Inc.; Shopko Stores, Inc.; Shore Pizza Hut, Inc.; Shoreline Septic Service; Showcase Carpet & Upholstery Cleaning; Seiger Food Service; Sierra Bells Inc.; Sierra Beverage Co.; Sierra Distributing; Sierra Landscape; Sierra Truck Center, Inc.; Sigerson Ins. Agency, Inc.; Sign It Quick International, Inc.; Signs & Things; Sigrid Monsef; Sigsby Insurance, Inc.; Silver Oak Mgmt. Corp; Simon Financial Company; Simpson Construction; Sinco Group; Sirlion Stockade; Skeeter's Construction Co.; Skip's Restaurant and Lounge; Skyline Motel Corp.; Slade Gorton & Co., Inc.; SLI Enterprise, Inc.; SMAC Rentals & Sales, Inc.; Smart Jewelers Smith Asbury, Inc.;

Smith Insurance Agency, Inc.; Smith Management Co.; Smokey Glen Farm Barbequers, Inc.; Snelling Enterprises; Snow Busters Snow Removal, Inc.; Snyder Packaging, Inc.; Society Hill Hotels; Software North; Soise Air Service, Inc.; Solar Graphics, Inc.; Solid Waste Services, Inc.; Sonic Corp.; Sonic Systems; Sonny's Auto Salvage Inc.; Sound-Built Construction; South Bay Plastering, Inc.; South Hill Disposal Co.; South of the Border Inc.; South Texas Carbonics, Inc.; Southern Belle Dairy Co.; Southern Bells Inc.; Southern Foodservice; Southern Hospitality Inc.; Southern Milti Foods, Inc.; Southern MN Appraisal Services; Southern Pan Services Co.; Southern Plants; Southern Wisconsin, Inc.; Southgate Electric, Inc.; Southlake Electric Co.; Southport Electrical Service, Inc.; Southwest Georgia Oil Co.; Southwest Hotel Management Co.; Southwest Sound and Electronics, Inc.; Southwestern Trading Co.; Southworth-Milton, Inc.; Space City Record Storage; Specialty Produce Co., Inc.; Specialty Soda Systems, Inc.; Specialty Tools & Fasteners Distributors Association; Speechworks, Inc.; Speedy Sign-A-Rama; Speedy Sign-A-Rama USA of Durham, NC; Sportmart, Inc.; Sportsales; Spotless Touch, Inc.; Springfield Holiday Inn; Springs East Schools; Springseason Enterprises, Inc.; SSF Enterprises; St. Armands Baking Co.; St. Joseph Plastics; St. Louis Small Business Monthly; St. Mar Ent. Inc.; Staebler Financial Services; Staff Masters; Stainless Design Corporation; Stan Schmidt Insurance Agency, Inc.; Standard Restaurant Equipment Co.; Stanley Steamer Carpet Cleaning of Collier Co., Inc.; Stanley W. Cooper, Inc.;

State Farm Insurance Co.; Statewide Transport, Inc.; Steel Service Center Institute; Steep Hill Grill; Stefano and Associates, Inc.; Stellar Enterprises; Stelling Banjo Works, Ltd.; Steno-Wolf Associates; Sterling Vision, Inc.; Stevens Creamery; Stevens Produce, Inc.; Stewart Septic Tank Service; Stewart Travel Inc.; Stone & Sons Plumbing, Inc.; Stonetree Investments, Inc.; Stop 'N Serve; Stop Fire Co., Inc.; Storage Builders Unlimited, Inc.; Stout Specialties Advertising Company; Strawn Construction Co.; Strictly Speaking, Inc. Balford Farms; Strode's Refrigeration & Air Conditioning, Inc.; Stuck's Inc.; Stueckdrat, Inc.; SubZero Refrigeration; Success Communications & Marketing Associates; Suffolt Co. Water Authority; Sugar Cane Growers Cooperative of Florida; Sugar Hill Restaurant; Sugar Hill Restaurant; Sugarhouse Shopping Center; Sullins & Associates, Inc.; Summit Engineering Corp.; Sun Mex Inc.; Sunbelt Otation Service, Inc.; Sunbelt Upholstery Maintenance; Sunbird Carpet & Window Cleaning; Sunburg Inc.; Sunco Carriers, Inc.; Sunleaf Nursery; Sunnyside Restaurant; Sunrise Security Service; Sunshine Dairy Foods, Inc.; Sunshine Enterprises, Inc.; Sunshine Window Cleaning, Inc.; Super 8 Motels; Super Store Industries; Super Valu Stores; Superior Lawn Maintenance, Inc.; Supply House Co.; Sutherland Management Co.; Sutton Plumbing, Inc.; Swan Cleaners, Laundry & Linen Supply; Swanson Food Equipment Service, Inc.; Sweeping Service; Sweet Manufacturing Co.; Swingline Const. Inc., The Pour House; Sycamore Oaks Inc., The Grist Mill; Sycaway Creamery, Inc.; Sylvan Street Grille; Systemex, Inc.;

Systems Record Storage; T & K Restaurant Franchise Group, Inc.; T.B. of Leesville, Inc.; T.B. of Starke Inc.; T.C. Learning Corp.; T.R. Rippon Associates; T.S. Duncan, Inc.; T.T. Management Co.; T.T. Tacos, Inc.; T N T Mechanical Contractors, Inc.; T&S Rentals & Sales; T&T Properties; Tabellco Inc.; Taber's Products Inc.; Tabor Painting Co.; TAC, Inc.; Tac-Ods, Inc.; Tacala, Inc.; Tack Restaurant; Taco Bay Enterprises Inc.; Taco Bell, Inc.; Taco Colorado, Inc.; Taco Concepts; Taco Del Este Inc.; Taco Food Service, Inc.; Taco Management Co.; Taco Rio, Inc.; Taco Sales Co. Inc.; Taco Tio Inc.; Taco-Pacifico Corp.; Tacoma, Inc.; Taira's Inc.; Taisho Plumbing & Heating; Tall Timbers Pizza Hut, Inc.; Tamarac Carpet and Furniture Cleaning, Inc.; Tape Products Co.; Target Construction Inc.; Tarka, Inc.; Tastee Freez of Chicago; Taurus Engraving ; Tavern Service Co.; Tay Mac Corporation; Taylor & Company; Taylor Brothers LLC; Taylor Foods Inc.; Taylor Freezer of Michigan, Inc.; Taylor Freezer of New England; Taylor Freezers of Southern California, Inc.; Taylor Rental; Taylor Sales; Taylor Soft Serve, Inc.; TB Restaurants, Inc.; Teasdale Fenton/Sparkle, Inc.; Tempaco Inc.; Temperature Service Co.; Temporary Corporate Housing, Inc.; Tennessee Restaurant Association; Tennyson Enterprises, Inc.; Terra Aqua Research; Terry Supply Co.; Terrytown Plumbing;

Texas Restaurant Association; Texas Security Consultants, Inc.; Texas Sign; The Alan White Company, Inc.; The Allen Co.; The Barbers Hairstyling for Men and Women, Inc.; The Barker Tavern; The Blade Shop; The Blind Co., Inc.; The Blue Lion Restaurant; The Buffalo Hilton (Buffalo, NY); The Caldor Corporation; The Candlelight Inn, Inc.; The Cannery Bar and Grill; The Chamber/New Orleans and the River Region; The Chamber of Medford/Jackson County (OR); The Cobacker Co.; The Coffee Beanery, Ltd.; The Correct Cut Co.; The Country Home Computer; The Dial Corporation; The Duke's Plumbing, Inc.; The Dwyer Group; The Edge of Knife; The Electric Motor Repair Co.; The Enchanted Florist; The Everett Co.; The First City Company; The Flower Patch, Inc.; The Flower Station; The Flowers Company/DBA The Flowers Auto Parts Co.; The Forget Me Not Flower Shoppe; The Friendly Plumber of Florida, Inc.; The Galbreath Company, Inc.; The Garden Cafe; The Good Neighbor Alliance Corp.; The Grand Union Company; The Great Midwest Seafood Co.; The Grove Park Inn Resort, Inc.; The Hale Group, Ltd.; The Haws Companies; The Hayes Group; The Hotel State College & Co.; The Index; The Ink Well of America, Inc.; The Irrigation Association; The Italian Host; The Italian Oven, Inc.; The Kades Corporation; The Kane Restaurant Group; The Kroger Co.; The Kwik Kopy Printing Advisory Council; The Landworks; The Lock Shop, Inc.; The Mackorell Group, Inc.; The Marketing Connection; The McAdams Group; The McRib Co.; The Meeting Place Restaurant; The Mohler Company; The Morrison Milling Co.;

The Nyhart Company, Inc.; The Nyman Group Ltd.; The Olive Garden Restaurant; The Oregon Service Center, Inc.; The Orlando Bagel Factory, Inc.; The Other Place Restaurants; The Piken Company; The Pizza Place, Inc.; The Plant People; The Plant Sitters, Inc.; The Plumbing Store; The Post Office Store II; The Post Restaurant; The Pour House Restaurant; The Printing Place Inc.; The Promus Companies, Inc.; The Quaker Oats Company; The Radio Shop, Inc.; The Reed Agency, Inc.; The Restaurant Connection, Inc.; The Seal-Flex, Co., Inc.; The Sear Brown Group, Inc.; The Servants Inc.; The Sign Palace, Inc.; The Sitting Duck; The Skinner & Broadbent, Co., Inc.; The Southern Seafood Co.; The Spaghetti Warehouse; The Syvertsen Corp.; The Taverne of Richfield; The Terminix International Co.; The Total Rental Centers, Inc.; The Travelers Insurance Companies; The Vincent Association; The Vollrath Co., Inc.; The Weiland Financial Group, Inc.; The Zoning Professionals; Theresa & Frank AuCoin; Thermal Control, Inc.; Thermal Dynamics, Inc.; Thermal Services; Thermal Trek, Inc.; Third Coast Produce; This Vincent Association; Thomas Drexler, Inc.; Thompson & Brock Management, Inc.; Thompson's Creative Marketing Group; Thompson's Farm Fresh Produce, Co., Inc.; Thornton Gardens, Inc.; Thorp Awnings, Inc.; Three Cheers Restaurant & Bar; Thrifty Flowers, Inc.; Tiffany Care Centers, Inc.; Tiffin-Toff House;

Timecorp Systems, Inc.; Timlin Plumbing & Hearing, Inc.; Tindel Construction, Inc.; Tinkels, Inc.; TLC Interior Plant Service; TNT Mechanical Contractors, Inc.; TNT Plumbing;

Todd Electric & Refrigeration; Todd's Quality Tomatoes, Inc.; Toddamy, Inc.; Toledo Oxygen & Equipment Co.; Tom McGhinnis Excavating, Inc.; Tom Pelnik Consulting Co.; Tom Rathsack Excavating, Inc.; Tom's Restaurant and Tavern; Tomar Tile Installations; Tomkins Pavement Maintenance, Inc.; TonerCharge; Tootsie Roll Industries, Inc.; Top Safety Products Co., Inc.; Topiary Nursery of Knoxville, Inc.; Topp's Tree Service; Tops Bar-B-Q, Inc.; Torco Termite & Pest Control; Torginol, Inc.; Total Truckhaven Station; Towery Air Conditioning, Inc.; Town Video Inc.; Tradehome Shoe Stores, Inc.; Traid Industrial Services; Trammell, Inc.; Transition, Inc.; Transmission City, Inc.; Transportation Manufacturing Corp.; Traube Canvas Products, Inc.; Travelers Express Company, Inc.; Traverse Leasing Corp.; Tregon Packaging Corp.; Trend Publishing Co.; TRI County Management; Tri Realty Management Corporation; Tri-City Florist; Tri-Lateral Sales, Inc.; TRI-M Corporation; Tri-State Dev. Inc.; Tri-State Service Co.; Tri-Ventures, Inc.; Triad Associations, Inc.; Triangle Reprographics, Inc.; Trico Pizza, Inc.; Triple J.S. Enterprises; Triple T Foods Corp.; Tripplett Management Corporation; Triumph Seed Co., Inc.; TroGuen & Chambers; Tromble and Co., Inc.; Tropex Plant Leasing, Inc.; Tropical Interiors, Inc.; Troy's Welding, Inc.; TRT Holdings, Inc.; Trustin Awards, Inc.; Tri-Cycle Corporation; TSC/The Service Company; TTR Investments; Tuff Shed, Inc.; Turri's Italian Food, Inc.; TV Taco Inc.; Twin City Grinding Service;

Twin Creek Nursery; Twin Oaks Nursery & Florist, Inc.; Twin Pines Landscape Services; Two Sisters Flowers; TyDa Co.; Tyler Outdoor Advertising, Inc.; Tyler Well Service, Inc.; Uffda Corporation; Ultraguard Service; Undergrowth, Inc.; Uni-Marts, Inc.; Uniglobe Travel International Inc.; United Agre Business League; United Biscuits; United Canvas, Inc.; United Cleaning Co.; United Coupon Corporation; United Fruit & Produce Co.; United Garden State Restaurant & Lodging Association; United Insurance Services, Inc.; United Refrigeration, Inc.; United Restaurant Supply Inc.; United Seafood Imports, Inc.; United Service Co.; United Trophy Mfg., Inc.; United Truck Body Company, Inc.; United Window Co. Inc.; Universal Coach Parts, Inc.; Universal Colort Graphics, Inc.; Universal Mfg. Company, Inc.; Universal Refrigeration, Inc.; Universal Restaurants; Universal Unlimited, Inc.; University Building Specialties, Inc.; Unoio Nool's; University Club; UP Enterprises, Inc.; Upstate Window Cleaning Co.; Urban Architecture; US Environmental Services; US Shoe Corp.; V.C. Sorenson, Inc.; V&T Carbonic, Inc.; Valencia Technical Services, Inc.; Vallejo Fire Extinguisher Service, Inc.; Valley Foods, Inc.; Valley Garden Center; Valley High Apartments; Valey Uniform & Linen Rental Service, Inc.; Valli Information System, Inc.; Van Lee Inc.; Van Management, Inc.; Van 's Electric of Lake Worth, Inc.; VanBooven Lawn & Landscaping; Vander Hyde Machanical, Inc.; Variety Wholesalers, Inc.; Varsity Beverage Co.; Vasco Properties Inc.; Vegas Time Associates, Inc.; VELA Food Enterprises, Inc.; Venture Stores, Inc.;

Veri-Best Bakers; Verifications, Inc.; Vermeer Auto Parts, Inc.; Vermont Pizza Huts, Inc.; Verona Oil Company Inc.; Vertex Corporation; Vibro-Steam of Abilene; ViCorp Restaurants, Inc.; Village Restaurant of Essex Inc.; Village Towne Restaurant; Vinylman; VIP Medical Personnel, Inc.; VIP Temps; Virginia Home Medical; Virginia Pizza Co., Inc.; Vision Records, Inc.; Vista Enterprises Inc.; Vista Foods Inc.; Vitamilk Dairy, Inc.; Viva La Pasta; W.A. Management Co., Inc.; W.A. Read, Jr. & Associates; W.R. Bommer Plumbing and Drain Cleaning; W.R. Foods, Inc.; W&B Enterprises, Inc.; Wabash Valley Pizza Hut, Inc.; Waffle House Inc.; Wagy's Management Company., Inc.; Wal-Mart Stores, Inc.; Waldorf Plumbing Co.; Walkor-Harry Co.; Wall Trends; Wallace Garden Center & Greenhouse Co.; Walsh & Simmons, Inc.; Waltree Construction, Inc.; Walts' Plumbing Inc.; Wapak Restaurants, Inc.; Ward-Brodt Music Company; Warmel Corporation; Washington State Horticulture Assn.; Waste Management of Kansas, Inc.; Watersource Consulting Engineers, Inc.; Watts & Associates; Wayland Refrigeration & Air Conditioning; Wayne Automatic Fire Sprinklers, Inc.; WD Sylvester Inc.; Weber Enterprises Inc.; Welford Harris, Inc.; Wellesley Chamber of Commerce; Wemal Inc.; Wendy's International, Inc.; West Coast Steel Fabricators, Inc.; West Farms Environmental Horticulture; West M'Corporation; West Texas Foods, Inc.; West Virginia Office Products, Inc.; Westaco Inc.; Westchase Window Cleaning, Inc.; Westcore Partners; Western Capital Mortgate; Western Growers Association;

Western Growth Construction Corporation; Western Rib-Eye Inc.; Westurf Distributors, Inc.; Wever Accounting Management; Whalen Furniture Inc.; Whataburger, Inc.; White Hen Pantry, Inc.; White Rose Rental Laundry; Whitehead Plumbing, Inc.; Whitelock Family Trust; Whitney Development Corp.; Whitney Products, Inc.; Whittington's Lawn Service, Inc.; Wholesale Distributors Association; Wholesale Florists & Florist Suppliers Association; Wide Construction Company; Wilbur Curtis Co., Inc.; Wiley & Flynn/A Photographic Company; Wilke Dairy Co.; Wilkes Sombrero Inc.; Willeys, Inc.; William Hay Brown; Williams Foods, Inc.; Williams Sausage Co., Inc.; Willie Itule Produce, Inc.; Willow Specialties Willsie Landscape; Wilson Enterprises; Wilson World Hotel Irving; Winder Dairy; Windmeier Construction; Windy City Pizza; Wing's Stadium & Kalamazoo Wings; Winkinl Lizard Tavern; Wisconsin Restaurant Association; Witmor Farms Restaurant; WJ Cantrel Refrigeration; Wohlenberg Ritzman & Co.; Wodert Insurance Services; Wolfgang's Cooling & Heating Corp.; Women's Health Boutique Franchise System, Inc.; Wood Master Graphics; Woodman's, Inc.; Woodson Construction; Woodson Storage; Woodworking Machinery Importers Association; Woody's Welding Service, Inc.; Woolworth; Woolworth Corporation; Worcester Industrial Products Corp.; Word Processing Services, Inc.; Workforce, Inc.; Worldwide Latex, Ltd. and First Financial Group, Ltd.; Wright Management, Inc.; Wright Painting & Decorating; Wyndham Hotels & Resorts; Xacto Asbestos Removal; Yardmaster, Inc.; Yin Management; Yireco Equipment Co., Inc.; Young's Jersey Dairy; Young's Water Conditioning; Yuma Insurance, Inc.; Zaven's Restaurant; Zee Medical Service Co.; Zenith/Kremer Waste Systems, Inc.; Zimmerman Plumbing & Heating, Inc.; Zinfandel; Zoeb, Inc.; Zum Deutschen.•

GOVERNMENT TAKINGS

• Mr. LEAHY. Mr. President, I would like to submit for the RECORD today an article by Edward Thompson Jr., the director of the public policy for the American Farmland Trust. We hear a large amount of discussion about whether whenever a governmental action affects private property, the government should make a payment to the landowners.

Often when we hear governmental action and private property in the same sentence, a negative image is created in our heads. However, as Mr. Thompson explains in his article, governmental action often increases rather than reduces the value of private property. In fact, governmental givings commonly are equal to, or outweigh, any governmental takings. Nevertheless, governmental givings are frequently lost in the takings debate. This article offers both an insightful look into the root of the problem and proposes possible solutions. I would invite my fellow colleagues to each take a look at this article and carefully listen to what it has to say. I ask that Mr. Thompson's article be printed in its entirety.

THE GOVERNMENT GIVETH

(By Edward Thompson, Jr.)

By decreeing in the landmark case *First English Evangelical Lutheran Church v. City of Los Angeles* that landowners may collect monetary damages from the government when property is "taken" by regulation, the U.S. Supreme Court may have done a favor for a nation struggling to reconcile private enterprise with environmental protection. Now that the public treasury is at stake, budget-conscious legislators are being forced to take a harder look at the risk that government regulation may take property by too severely regulating its use.

When they do so, they are likely to discover that the best way to manage the risk of takings may be to eliminate "givings": government subsidies that simultaneously encourage uses of land that require public regulation and increase the value of the land itself. Examples range from farm subsidies that have promoted wetlands drainage and soil erosion to the income tax deduction for home mortgage interest that drives wasteful urban sprawl. Eliminating or redirecting subsidies such as these would not just minimize potential takings claims. It would also result in budgetary savings that could be reinvested in incentives to make environmentally desirable land uses more profitable—a win-win outcome for the environment and property owners alike.

There isn't an acre of property in the United States with a value strictly attributable to private enterprise. Government actions exert a powerful influence on the utility and, hence, the value of land, whether it is waterfront property in South Carolina or farm fields in Illinois. As often as not, such actions increase property values by making formerly uneconomic uses profitable. That, of course, is the essential purpose of subsidies.

Take the celebrated case of David Lucas, the real estate developer who recently won a $1.5-million takings judgment because he was denied permission to build houses on the beach at Isle of Palms, South Carolina. Whether or not one agrees with the decision in his case, the fact remains that both Lucas's ability to build on the beach and the

value of his beachfront lots were augmented by government action. Public authorities had constructed a bridge to provide access to the island, roads to drive on, water and sewage systems to serve the houses, and beach protection measures to prevent them from washing away. On top of that, the government has helped underwrite flood insurance to cushion the loss when those measures fail. All of these taxpayer-financed improvements contributed to the value of Lucas's property and in all likelihood spelled the difference between its being attractive for development and a financially worthless strip of shifting sand. In effect, much of the government's financial exposure for taking the Lucas property was attributable to the government itself.

Another example of government action that has given value to private property is the payment of agricultural subsidies. On average, the federal government pays the nation's farmers about $30 million a day to encourage them not to plant crops on part of their land. The "set aside" payments are intended to regulate the supply of corn, wheat, and other major commodities so that their prices do not become depressed. Together, the payments and higher commodity prices maintain farm income, keep farms in business, and help assure that the United States has the world's most abundant and affordable food supply.

In so doing, however, agricultural subsidies have been capitalized into land prices, increasing the total value of U.S. farmland by around $250 billion, according to the American Farm Bureau Federation. This windfall has helped make it profitable for farmers to drain wetlands and to plow up fencerows and highly erodible ground that otherwise would have been untouched. While the "sodbuster" and "swampbuster" provisions of the 1985 farm bill seem to have enjoyed some success at preventing new drainage and plowouts, the ironic fact remains that agricultural givings have probably done as much as anything to fuel the current takings debate between farm groups and environmentalists over wetlands and erosion-control regulations.

A third example of givings is another sacred cow: the income tax deduction for home mortgage interest. For taxpayers whose combined federal and state income tax bracket is, say, 35 percent, the deduction reduces the cost of every $100 in mortgage payments to only $65. This enables people to buy houses almost half again as expensive as they could without the write-off and is, thus, a massive subsidy to the real estate industry. The Congressional Budget Office estimates the annual revenue cost of this tax preference to be $44 billion. Assuming capitalization at 6 percent, today's average mortgage rate, it can be said to have enhanced residential property values by approximately $730 billion.

The mortgage deduction is intended, of course, to make home ownership more affordable. Few would argue with this objective. But the subsidy is conferred regardless of how or where houses are built. They can be built in wetlands or endangered species habitat, on barrier islands, floodplains, or Civil War battlefields. The subsidy is the same whether the pattern of development is low-density sprawl or compact communities that have a wide variety of environmental and economic advantages: conservation of prime farmland and open space, lower energy consumption and air pollution, reduced public service costs and demand for property tax collections. Though some would argue that the neutrality of the mortgage deduction keeps land use planning at the local government level, as a practical matter it gives developers a powerful incentive to try to upset local plans.

These are only a few of the public subsidies built into private property values in the United States. Ironically, givings such as these are at least partly responsible for the increased attention to takings of private property now manifesting itself both in litigation and in legislative attempts to require review of proposed government regulations, ostensibly for purposes of avoiding takings litigation and the potential liability now associated with it.

By creating expectations of profit from land where none formerly existed, givings have almost certainly encouraged takings litigation, the mere threat of which intimidates government officials into making questionable land use decisions. But a more explicit judicial recognition of the influence of givings on property value as it relates to the issue of just compensation might help restore government officials' confidence by discouraging borderline litigation and reducing potential damage claims.

A recognition of governmental givings is already a significant—though seldom acknowledged—part of modern takings jurisprudence. Notwithstanding *First Lutheran Church, Lucas*, and other recent cases, the basic takings rule has remained unchanged since it was first articulated by Justice Oliver Wendell Holmes in *Pennsylvania Coal Co. v. Mahon:* Virtually *all* economic value of land must be destroyed by regulation for a taking to occur. Only under such circumstances, Holmes said, does regulation "go too far" in shifting the cost of improving the social condition from the public to private property owners.

Some property rights advocates have criticized the all-or-nothing rule. They seek to enlarge the concept of takings to include circumstances where regulation proscribes use of only part of a larger property or the whole has merely been reduced in value. This, they claim, is necessary to restore fairness to the system of land use regulation and make government, which is to say the general public, pay its fair share of protecting the environment. A closer examination of the philosophical and practical basis for the current rules suggests, however, that compensation for partial takings or mere diminution in value would itself go too far.

The source of the current "all-or-nothing" rule was Holmes's insight that property values are *increased* as often as decreased by government action; that, on the whole, landowners are benefitted and burdened in roughly equal measure by government spending and regulatory decisions. The renowned jurist termed this "average reciprocity of advantage," but in plain English it could simply be said that "givings tend to balance takings."

Though the rule is a practical one—"Government could hardly go on," Holmes observed, "if to some extent values incident to property could not be diminished without paying for every such change"—it also implicates fundamental fairness. Would it be just to charge the public for every diminution in property value, while at the same time allowing property owners to reap a windfall every time government action increases land values?

The "all-or-nothing" rule thus insulates government from liability except when regulations proscribe all economic use of property. Few regulations go that far, but there may be some important exceptions, including regulations designed to protect wetlands, barrier beaches, and some endangered species habitat. None of these environments can tolerate much if any economic use and survive. They will remain fertile ground for future takings litigation and the source of potential government financial liability. It is, therefore, worth exploring how the concept of givings could further inform takings jurisprudence as it affects the sharing of responsibility and cost of environmental protection.

One promising avenue of inquiry might be a re-examination of the notion of just compensation. Currently, the measure of damages for takings is the fair market value of the property whose use is prohibited. This concept of valuation reflects, among other things, enhancements of land value attributable to governmental givings. Arguably, where government has subsidized property value, a takings award based on fair market value results in *unjust* enrichment of property owners who are compensated not only for their "equity" but also for the windfall value created at public expense.

Whether the courts will entertain this argument remains to be seen. Currently, they look only at the harm suffered by the aggrieved landowner—not the potential loss to the government or taxpayers—in determining just compensation. But how can it be said that a property owner has been harmed when the government decides to take back by regulation what it has given through subsidies or other action? Why shouldn't courts consider evidence that property values have been inflated by government action in deciding what compensation is fair? Why shouldn't they reduce damage awards by an amount attributable to givings?

The prospect of government financial liability for takings has prompted officials to analyze proposed regulations affecting land use to determine the extent to which they could lead to damage claims. Though it is questionable whether such analysis can actually help government avoid takings exposure by rewriting regulations, it does afford officials an opportunity to examine how they can do so by eliminating givings.

Executive Order 12630, signed by President Reagan in the early 1980s' was the first initiative to require regulatory analysis aimed at reducing takings exposure. While a U.S. Senator, Steve Symms (R-Idaho) later succeeded in persuading the Senate to pass a bill (S. 50) in the 102nd Congress that would have codified this order, but it died in the House. Variations on it have been resurrected in the current Congress by Senator Robert Dole (R-Kansas) (S. 117) and a number of members of the House, where an agriculture subcommittee recently held hearings on such a measure (H.R. 561). Many state legislatures are considering similar bills and a few—such as Indiana and Utah—have passed them, but most bills have been defeated.

It is difficult to see how prospective analyses of takings claims could possibly result in any meaningful conclusions. If 70 years of Fifth Amendment jurisprudence have taught anything, it is that takings determinations are perforce a case-by-case exercise. To predict government liability in advance, so many assumptions would have to be made about the on-the-ground impact of regulation on individual properties as to defy credulity: the number of affected properties of record, the environmental characteristics of each property, patterns of ownership relevant to "total taking" analysis, the appraised value of each parcel under future

market conditions, and any circumstances that under *Lucas* could excuse a taking. If the government really tried to get access to that much information about private land in the United States, property rights advocates would scream invasion of privacy—as indeed they have in opposing the National Biological Survey.

One conclusion about government's potential exposure to takings claims is clear under any set of assumptions: Its exposure could almost certainly be reduced by eliminating, conditioning, or redirecting governmental givings that increase the value of private property by encouraging uses that must be regulated in the interest of protecting the environment. While the courts may be reluctant to consider the extent to which taxpayers enrich landowners—yes, there's an overlap, but taxpayers don't get to spend their own money—there is no reason why Congress, the administration, and state officials should not. Indeed, at a time when budgets are tight all over, and the nation's environmental and social deficits continue to grow, re-examining how tax dollars are distributed among classes of subsidy beneficiaries would seem to be an imperative.

A hard, careful look at real givings—not putative takings—is the kind of analysis that needs to be undertaken if the nation is to avoid both financial and environmental bankruptcy. For too long, we have been subsidizing the very uses of land we need to regulate in the interest of environmental protection. This has set the stage for double dipping in the public treasury by those who benefit from taxpayer largesse and then sue the government for damages when regulation frustrates their plans. The last thing we can afford is to pay twice for environmental protection. Paying once—compensating property owners for using the land as the public sees fit—is probably the most effective way of achieving harmony between private enterprise and protection of our environment.

Instead of continuing to subsidize new development of barrier islands and other flood plains, we could reprogram funds now used to build infrastructure and use them to buy and retire development rights on flood-prone lands. That is in effect what South Carolina was forced to do in Lucas's case, except that it is now offering the property for sale for development purposes. It probably could have bought two or three times as much land on an island where property values were not as inflated by government subsidies.

Agricultural subsidies are also fertile ground for fiscal reprogramming. They could be shifted from Traditional set asides to "green incentives" paid to farmers for conserving soil, protecting wetlands and other habitat, cleaning up non-point-source water pollution, and dedicating prime farmland to rural open space. Existing programs like the Conservation Reserve, Wetlands Reserve, Water Quality Incentives, and Farms for the Future, which now account for only about one-sixth of annual farm spending, provide ready-made vehicles for doing this. Farm income would continue to be supported, assuring a stable food supply. But many of the environmental impacts of modern agriculture would be ameliorated by withdrawing the incentive to push the land beyond its capacity and replacing it with an incentive to conserve resources and protect the environment.

It is probably too much to ask for Congress to re-examine the home mortgage interest deduction in any meaningful way. But what would happen if this subsidy to real estate development were graduated or conditioned on the basis of the impact of new dwellings on the environment and their consistency with local comprehensive plans? Developers would be encouraged to build houses on land with few environmental constraints because those houses would be less expensive than comparable dwellings located on prime farmland, in wetlands, critical wildlife habitat, and maybe even on barrier beaches. The revenue recaptured could be used to fund a housing tax credit for lower-income families to maintain the overall affordability of housing. For perhaps the first time in history, federal tax policy would harness the marketplace to improve the quality of community growth and to protect the environment, rather than promoting its destruction.

The Fifth Amendment seeks to assure that the cost of achieving social objectives if fairly shared by property owners and the public at large. Property rights advocates complain that regulations are forcing landowners to bear a disproportionate share of the burden by taking property value. All but ignored in the debate are givings, governmental subsidies that enrich property owners by making uneconomic uses of land profitable and which, not coincidentally, increase the need for the regulations that landowners find so vexatious.

An honest recognition of, and accounting for, givings has tremendous potential to inform the debate over private property rights and change the way we approach the protection of public environmental values. Though the courts implicitly consider givings in takings jurisprudence, they are powerless to curb them and can only arbitrate when the government sends property owners confusing signals about the appropriateness of land uses by simultaneously subsidizing and regulating them. It is up to the political branches of government to reexamine how tax dollars are spent on subsidies to unwise land use, and to reprogram scarce funds so that they send the unmistakable market message that there is more profit in protecting the environment than in destroying it.●

A TRIBUTE TO PAUL A. FROMM ON HIS RETIREMENT FROM THE ARMY AND AIR FORCE EXCHANGE SERVICE

● Mr. NUNN. Mr. President, today I want to congratulate Mr. Paul A. Fromm, chief operating officer of the Army and Air Force Exchange Service, on the occasion of his retirement from the Army and Air Force Exchange Service.

During the span of his 36-year career, Mr. Fromm worked in nearly every area of the Army and Air Force Exchange Service organization, from an hourly paid clerk to the highest ranking civilian in a work force of 71,000 people. His first job was as a stockroom clerk at Columbus Air Force Base, MS. Then he served as stockroom manager, and eventually as the retail store manager, preparing him for leadership roles for the remainder of his career in the Army and Air Force Exchange Service.

In 1985 Mr. Fromm was selected for his current assignment, one of the youngest to achieve this position. His leadership has been marked by a commonsense approach to every decision. Paul was committed to focusing on the mission of military men and women and their families, wherever they were assigned.

It is often said that in the retail industry, the only constant is change. Mr. Fromm realized this and sought to make those changes for the ultimate benefit of the men and women of the Armed Forces and their families. Under his leadership, the Army and Air Force Exchange Service restructured management to a centralized function. He steered the organization to focus on what the customer needs, and adapted the Exchange Service to that need. His oversight led to information systems modernization which set the standard for the rest of the Department of Defense resale community. The Army and Air Force Exchange Service is considered a role model as a government organization. Essentially, Mr. Fromm was reinventing government years before it became popular.

As Mr. Fromm retires, he leaves knowing that the Army and Air Force Exchange Service just completed their year with the highest sales ever recorded, which translates to one of the highest dividends ever to the Army and Air Force morale, welfare, and recreation organizations. Mr. Fromm has touched the lives of every soldier, sailor, airman, and marine—active, retired, or reserved—as well as their families. It is people like Mr. Fromm who help make the U.S. military quality of life programs work, provide tens of thousands of jobs, take a little piece of home to soldiers stationed overseas, and ultimately help in keeping our Nation strong.

Mr. President, I ask our colleagues to join me in congratulating Mr. Fromm on his retirement and to thank him for his dedicated, professional, and selfless service to the men and women of the U.S. Armed Forces and their families.●

HOMICIDES BY GUNSHOT IN NEW YORK CITY

● Mr. MOYNIHAN. Mr. President, I rise today, as I have done each week during this session, to announce to the Senate that 16 people were killed by gunshot in New York City this past week.●

THE CHILDREN'S HOME AND AID SOCIETY IN CHICAGO

● Mr. SIMON. Mr. President, the Children's Home and Aid Society of Illinois is a nonprofit, nonsectarian child and family service agency that provided care and service to nearly 10,000 children and families last year.

The society's innovative program allows a child or youth to remain under the care of the same agency, providing a number of benefits for the young person, their family, and for the agency.

It affords children the opportunity to maintain contact with an influential adult in their lives. It enables families to develop a sense of connectedness

with the agency. And it empowers the agency to enhance communication between staff members, as well as maintain contact with the children that have become important to them.

Mr. President, I rise today to recognize the Children's Home and Aid Society in Chicago. To best meet the changing needs of the children and families in their care, the society provides a truly complete continuum of care.•

TRIBUTE TO RHODES COLLEGE

• Mr. SASSER. Mr. President, I am pleased today to pay tribute and offer my sincere congratulations to the Rhodes College mock trial program. Last month at the 10th Annual National Intercollegiate Mock Trial Tournament in Des Moines, IA, Rhodes College captured the national championships in the two highest divisions of the competition.

Rhodes College is a small, highly respected private liberal arts college in Memphis, TN. Rhodes has been producing quality graduates for almost 150 years—I should know, since I currently have 5 Rhodes alumni on my staff.

Over 100 colleges and universities, including Ivy League schools, major State universities, and private liberal arts colleges, sent teams to compete in the mock trial tournament. Each team first participated in a regional competition to qualify for one of three divisions at nationals: the first-tier, championship flight; the second-tier, gold flight; or the third-tier, silver flight. Rhodes College sent two teams to the tournament, and they each won a national championship: one in the championship flight division and the other in gold flight.

Of course, this success would not have been possible without the hard work and dedication of the many young people participating in the competition. Spending many hours researching the fine points of law, boning up on courtroom procedures and fine tuning their vocal abilities, the Rhodes College mock trial teams demonstrated proficiency in the law and earned national titles.

The members of Rhodes' championship flight mock trial team are seniors Trey Hamilton, Karen Jones, Eric Dunning, Emily Pouzer, Caprice Roberts, Sam Woods; and juniors Melissa Berry and Michele Hart. Gold flight team members are seniors Andrea Moseley, Kevin Wiley, Robert Browning; juniors Trent Taylor and Paul Guibau; sophomore Ryan Feeney and freshman Gina Yannitell. All should be commended for their fine achievements.

I also commend the people behind such success—the coaches of the Rhodes College Mock Trial Teams: Professor Marcus Pohlmann, Mr. Whit Gurkin and Mrs. Thais Davenport Kilday. Professor Pohlmann has been head of the college mock trial program for the past 7 years, leading Rhodes to two previous national championships in 1990 and 1991. Mr. Gurkin is an attorney at the firm Wilson, McRae, Ivy, Sevier, McTyier and Strain, also located in Memphis. Mrs. Kilday, herself a Rhodes graduate and mock trial participant, works in the chaplain's office at Rhodes. They sacrificed their valuable free time and volunteered to help Professor Pohlmann prepare a top-notch team for competition. As you can see, their efforts yielded great rewards.

Mr. President, I know the entire community of Rhodes College—indeed, Rhodes alumni everywhere—join me in high praise of the college mock trial teams and coaches on their national titles.•

VOICE OF DEMOCRACY WINNER

• Mr. COATS. Mr. President, every year, the Veterans of Foreign Wars honor students from across America for writing inspiring essays about democracy. This year Russell Disilvestro from Bloomington was selected from more than 1,700 entries from Indiana and was judged 10th of the 54 best from over 138,000 entries across the country. I would like to include his essay entitled "My Commitment To America" for the RECORD and commend it to your attention. Far too little credit is given to the exceptional young people like Russell who will one day be leading this Nation.

MY COMMITMENT TO AMERICA

(By Russell C. Disilvestro)

Come with me for a moment as we journey back in time to the year 1863 and listen to Abraham Lincoln as he delivers the Gettysburg Address. Most of us are familiar with the opening line—"Four score and seven years ago our Fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal." We may not be as familiar with the statement of Lincoln's that comes a little later—"It is for us the living rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced."

Now let us journey back to 1993 and think about Lincoln's words as they relate to us today. Lincoln spoke about the need of citizens to fight to preserve their Union, but they were in the midst of a Civil War. What do we, as citizens, need to do in 1993 to preserve our Union? What is our responsibility as citizens of this great democracy?

As citizens, we have many responsibilities. We need to learn about our country's past, care about our country's present, and prepare ourselves for our country's future. The key to our responsibilities is found in Lincoln's words. Our country is, as he called it, an "Unfinished work." We are creating a new America each day. As a young person in America, I personally must ask, "What kind of America am I helping to create?"

As a young person, I show my commitment to America by learning about my country's history, and by learning about the Constitution. I show my commitment to my country by learning about the problems that face my country, by obeying the laws of my country, and by serving my fellow countrymen. I am serving my fellow man now by participating in student government. Some day in the future, I may show my commitment to America by running for an elected public office. That is a future dream, but I don't have to wait for the future to show commitment.

I try to show my commitment by using my writing and speaking skills to promote positive things about my country. This year, I spoke on Veteran's Day at my high school about the role of veterans in protecting our country's freedoms. Another unique way I have shown my commitment to America is by giving speeches about the importance of voting.

Why voting? Why have I chosen this topic as a unique focus of my commitment to America? Because I think that voting is so fundamental to our system of democracy. The world events of the past few years have made me stop and think about our country, our system of democracy in comparison to other forms of Government. All over the world, people literally have been dying for a democratic system that will allow them to vote. The students of China flooded Tiananmen Square, the people of East Germany broke down the wall, hungry for freedom! In the recent breakup of the Soviet Union, we witnessed the flowering of a new democracy where a totalitarian government once stood.

But freedom always has a cost. The birth of freedom, like any birth, involves pain, and, like any birth, involves the shedding of blood. Our own country and government were established only after the loss of many lives. Soldiers with bleeding feet starved, froze, and died serving under George Washington at Valley Forge. They paid a price so that we could have a democracy today!

How important is our democracy? Just ask the veterans who fought against Hitler in World War II. Just ask the United States soldiers who risked their lives in the Persian Gulf conflict. Just ask the families whose sons' and daughters' names are engraved on the Vietnam War Memorial.

Let's think back to Lincoln's closing remarks at his Gettysburg Address—"We here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom * * *" Each time we show our commitment to America, we give freedom a new birth. By showing our commitment to America, we can join our dream to the dream of Abraham Lincoln: That this government "* * * of the people, by the people, shall not perish from the Earth."•

A VALIANT EFFORT

• Mr. SIMON. Mr. President, yesterday, Jean Driscoll of Champaign, IL, won her fifth consecutive Boston Marathon at 1:34:21. It was the fastest time ever in the women's wheelchair division.

Driscoll, 27, has managed to set a new world record each time she has raced in Boston. She also is the owner of the current national 10-kilometer championship, holding the world's best women's time—23:46.

Driscoll, who was disabled at birth because of spina bifida—open spine—uses a wheelchair to provide the mobility that her legs cannot. Spina bifida

robbed her of a normal childhood and a chance to dream the dreams of other girls growing up in the Midwest. Her parents were told she would be mentally retarded and have no future. Thank goodness Jean and her parents knew differently.

In 1992, when wheelchair racing was an exhibition sport at the Olympics in Barcelona, she won the silver medal for 800 meters.

I am so encouraged by Jean's efforts. She grew up in Milwaukee. Until her freshman year in high school, she could get around using braces and a walker. Then a bike accident left her in a body cast for a year.

With atrophied muscles, plus hip and knee problems, she had to deal with returning to school in a wheelchair—in addition to the normal trauma of being 15. Besides discouragement, Driscoll had to overcome the thoughtlessness of her peers. But she kept her chin up.

Her breakthrough was enrollment at the University of Illinois, where she was a dual-sport athlete in racing and wheelchair basketball.

She earned a bachelor's degree in speech communication and a master's in rehabilitation administration. She has remained in Champaign, where she helps coach two dozen wheelchair racers.

I am proud of this young woman, and on behalf of all Illinoisans, congratulations on a job well done.•

UKRAINE'S PARLIAMENTARY ELECTIONS

• Mr. DECONCINI. Mr. President, last week, Ukraine completed the second round of its first, post-Soviet parliamentary elections, electing 338 out of 450 deputies. This number is enough to constitute a quorum, and the new Parliament is scheduled to convene in mid-May. The vast majority of its members are newcombers, as only 56 from the old Parliament were reelected.

Despite preelection fears of apathy, Ukrainian voters turned out in large numbers. The high turnout clearly attested to the electorate's desire for change and its disillusionment with the country's leadership.

Mr. President, the Helsinki Commission, on which I serve as chairman, sent three staff members to observe the conduct of the campaign and the first two rounds of the elections. The staff visited over a dozen cities and towns. While observing some disturbing problems and irregularities in the electoral process, and notwithstanding shortcomings in the election law, the Helsinki Commission believes that Ukrainian voters generally were able to express their political will freely. The Commission's report on the elections will be available within a few weeks and will be sent to all Senate offices.

The new Parliament will include Communists and their allies—about one-third—moderate National-Democrats—about one-quarter—and a large group of nonaligned independents, whose views and allegiances are a question mark. There are differing views on whether this Parliament will make progress on economic reform and adopt a new constitution that would address the question of separation of powers. This is a priority for the new Parliament. Ukraine simply cannot afford more deadlock in its governing structures; and it certainly cannot afford to have its economy continue to spiral downward.

Much has been made of Ukraine's regional differences, including suggestions that Ukraine will break up. Differences between the more European-oriented west, and the Russia-oriented east do exist—the consequences, in part, of different historical legacies. Indeed, the results of the voting highlight these differences, with the National-Democrats doing well in western Ukraine and Communists enjoying electoral success in the east and south. But these differences, while serious, should not be overstated, and, indeed, no group or party will have a clear majority in the new Parliament.

In my view, Ukraine's future rests on its willingness to institute meaningful economic reform. Both the Parliament and the executive branch must tough political decisions in order to bring about real reform. Whether either is ready to do so remains, regrettably, an increasingly troubling question. For the sake of the Ukrainian people and stability in the region, I hope the Ukrainian Government finds the courage it has so far lacked.•

COMMEMORATING THE ANNIVERSARY OF THE CHERNOBYL DISASTER

• Mr. RIEGLE. Mr. President, today marks the eighth anniversary of one of the most significant disasters the world has ever witnessed. On April 26, 1986, a reactor at the Chernobyl nuclear power plant in Ukraine exploded, releasing radioactive particles that would travel as far as Scandinavia and Western Europe. At least 8,000 people have died as a result of this disaster and thousands of others have suffered from illnesses or from genetic defects. Despite the tragedy of the Chernobyl accident, frighteningly little has been done to improve the safety standards of nuclear reactors in Eastern Europe and the former Soviet Union, and the world simply awaits a second, similar disaster.

Clearly the most serious consequences of the Chernobyl accident were felt in Ukraine, Belarus, Lithuania, Russia, and other Eastern European countries. The World Health Organization reported earlier this year that the cancer rate among children in Ukraine and Belarus has risen to 80 times the normal rate since the Chernobyl disaster. Children born to the workers who were forced to clean up after the disaster are showing signs of severe birth defects. Among these children, immune deficiencies, genetic malformations, cancer, and other forms of extensive chromosomal damage are common.

Despite the consensus among the world's nuclear safety experts that Chernobyl-type [RBMK] power plants are of a faulty design, 58 continue to operate in Eastern Europe and the former Soviet Union. An International Atomic Energy Agency [IAEA] report ranks 25 of these reactors as especially worrisome. Among the most dangerous are the RBMK-style power plants at Ignalina, Lithuania; Kursk, Smolensk, and St. Petersburg, Russia; and the remaining reactors at Chernobyl in Ukraine. The longer these plants are in operation, the greater the risk of an accident and a potential repetition of the Chernobyl catastrophe.

The hazards from the RBMK reactors stem from inherent design flaws, including inadequate containment structures, inadequate safety and shutdown procedures, lack of proper backup systems, and faulty graphite control rods. In addition, sporadic maintenance of equipment and inadequate training of personnel compound the risks of continuing to operate these reactors.

Unfortunately, it is neither politically nor economically feasible to simply shut down these reactors. Some of these power plants are the only source of electrical power available to the countries in which they operate. Lithuania, for example, has no means of generating electricity other than with the dangerous Ignalina power plant. Moreover, the energy shortage extends throughout the entire region of the former Soviet Union preventing the closing of other unsafe plants. Most countries have chosen to face the risk of catastrophe by running these plants at full capacity, rather than deal with the disastrous effects that closing them down would have on their fragile economies.

I believe that it is critically important that the United States and the other industrialized nations do everything possible to help clean up the damage already done and improve safety standards for the future. Although the G-7 nations pledged $700 million 2 years ago, much of this money has already been allocated or spent, and the job is far from complete. Jonathan Heller, Secretary General of the European Atomic Forum [Foratom], has estimated that as much as $8 billion may be needed to effectively complete the needed repairs and overhauls. It is clear that the international community must step up its commitment to this problem if the world is to be safe from future disasters like Chernobyl.

The need for a United States commitment to deal responsibly with the problem of dangerous reactors in Eastern Europe is clear, particularly in light of the recent decision by the Export-Import Bank to extend loan guarantees to the Czech Republic to complete two partially built Soviet VVER-1000 nuclear reactors. Although these are a more modern design than the Chernobyl-type reactors, many observers remain legitimately concerned about the safety of the VVER-1000's. I believe the United States must demonstrate its concern with nuclear safety as well. Multilateral lending institutions to which the United States belongs must be more diligent in conducting thorough environmental, safety and economic impact assessments before committing funds to upgrade these reactors. Moreover, the results of these studies must be made available for meaningful public debate.

Mr. President, without international assistance, the countries of Eastern Europe and the former Soviet Union will not be able to back away from the brink of nuclear disaster. On this eighth anniversary of the Chernobyl disaster we must reaffirm, through our policies, our commitment to ensure that as we approach the 21st century the nuclear risks we face today are brought under control.•

COUNTERFEIT VIDEO GAMES

• Mr. GORTON. Mr. President, the U.S. video game industry is being severely injured by the foreign manufacture of counterfeit video games, particularly in China and Taiwan. Not only has counterfeiting saturated that domestic market in China, and, to a lesser extent, Taiwan, but counterfeiters in those countries also export huge quantities of their counterfeit products to countries throughout the world.

Counterfeiting caused losses of $2.5 to $3 billion in 1993 to Nintendo of America, Inc., Redmond, WA, a leading video game company located in my State, to the over 170 independent U.S. companies, which create and sell Nintendo video games, and to the more than 300 companies, such as a movie studio that license properties for use in Nintendo video games.

In February 1994, Nintendo and other United States video game companies filed a special 301 comment with the United States Trade representative in which it sought action against China and Taiwan. The special 301 comment also describes serious video game counterfeiting problems in Venezuela, Argentina, Panama, and Paraguay.

The primary focus of the special 301 comment was China and Taiwan because they are the primary manufacturers of counterfeit video game products. In 1992, both China and Taiwan executed trade agreements with the United States in which they agreed to improve copyright enforcement. Since that time, Taiwan has taken steps to improve its practices, but has not yet fully complied with the 1992 agreement. China's practices appear to have worsened.

The Chinese market is saturated with counterfeit video game products. In fact, the high tariffs on authentic video game products permit counterfeit video games to thrive in China. People's Republic of China video game counterfeiting is dominated by State-owned enterprises. One of the largest People's Republic of China counterfeiters is Tianjin New Star Electronics Co., which is controlled by the People's Republic of China Government's Ministry of Electronics and Machinery. The Ministry receives 20 percent of New Star's profits. Little Bawang is another State-owned enterprise that sells infringing Nintendo video games. Little Bawang advertises as the largest producer of video games in China.

Several weeks ago, Senator MURRAY, Representative CANTWELL, and I met with the Chinese Ambassador to stress the seriousness of this problem. While the Ambassador agreed to convey our concerns to his Government and to advise us of his Government's response, we have not yet received a response.

Due to Taiwan's history of counterfeit trade, the United States Trade Representative designated Taiwan as a "Priority Foreign Country" in 1992. In response, Taiwan entered into an understanding in 1992 in which it agreed to establish an export monitoring system that would prevent the export of infringing software products, including video games, from Taiwan. Unfortunately, Taiwan's export monitoring system has not been successful in preventing the export of counterfeit Nintendo video game products including semiconductor chips which contain copyrighted video games. Many of the counterfeit video games assembled in China contain infringing semiconductor chips that were imported from Taiwan.

Taiwan counterfeiters openly advertise their infringing video game products in magazines in utter disregard of the export monitoring system. There are at least 25 such companies that boldly advertise their infringing video game products in a magazine with wide circulation. One of these companies is NTDEC, a Taiwan infringer, against which a United States court entered a judgment for $24 million. The Taiwan Government revoked NTDEC's import and export privileges in December 1993, but today, NTDEC continues to operate at its old address under the NTDEC name and another name as well. NTDEC infringing products continue to be found outside of Taiwan. In its advertisement, NTDEC states it is a manufacturer of video game products and displays among other things a Nintendo video game which it passes off as its own. NDTEC is only one of many examples that highlight the failure of the Taiwan Government to effectively implement the promised export monitoring system.

Mr. President, I believe China should be designated as a "Priority Foreign Country" due to its lack of a copyright enforcement system and that Taiwan should be placed on the priority watch list based on the continued ineffectiveness of its export monitoring system for copyrighted software.•

ANNIVERSARY OF THE ARMENIAN GENOCIDE

• Mr. SIMON. This week we reflect on one of the worst crimes against humanity committed in our century: The Turkish massacre of one and a half million Armenians beginning in 1915.

Nationalism based on notions of ethnic purity is not something most Americans identify with or accept. So it is fitting that many of the descendants of survivors of the Armenian genocide found homes in the United States. Armenians are a great and talented people. Their achievements are disproportionate to their numbers. I have myself seen, during a visit to Armenia last year, the fortitude of Armenians in coping with post-Soviet economic dislocations, blockades by Turkey and Azerbaijan, and the war over Nagorno-Karabakh. History and geography have been unkind to the Armenians and I understand and join in the sentiments of Armenians, like all victims of ethnic cleansing: "never again."

That feeling is, I am sure, in the hearts of the refugees and inhabitants trapped in Gorazde, subjected to bombardment from Serbian tanks, artillery, mortars, and machineguns in a town which the world community has declared to be a safe area. The hysteria and cruelty which led to the Armenian massacres is still with us and, wherever it occurs, Americans and their government should decisively reject it—not wring their hands and try to look the other way.

Armenians deserve a homeland which is as prosperous as the people are industrious and talented, and which is as secure as the Armenian past was difficult. In order to accomplish this, the war between Armenia and Azerbaijan must end. The war has caused untold suffering in both countries.

This week, as we memorialize one and a half million dead Armenians of a past generation, I urge the administration to redouble its efforts, and its commitment, to work with the parties directly and with the international community to stop the war.•

MORNING BUSINESS

Mr. DOMENICI. Madam President, I ask unanimous consent that I may be

permitted to proceed as if in morning business for 7 minutes.

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

HEALTH CARE REFORM AND THE FEDERAL BUDGET

Mr. DOMENICI. Madam President, I want to speak for a few moments about an issue that is going to occupy a great deal of our time over the next few months. Of course, everybody would guess that is health care reform. In particular, I wish to talk about health care reform in the context of the U.S. Government's Federal budget and the very difficult issue of how do we get the deficit and when might we ever get the deficit down to zero, because I think there is some serious concern about that among those who look at the future for our children and grandchildren in terms of our inability to get those two, the receipts and the expenditures of Government, to come together at zero and not spend more than we receive.

Now, lest we forget, it is important to recall that last year the President argued repeatedly that he had a two-pronged strategy to attack the Nation's deficit—his budget plan, including new taxes and significant reductions in defense, and, the way I see it, not very many other cuts. So we had a tax and budget plan as one aspect of the President's two-pronged strategy, and, yes, believe it or not, the second aspect of deficit reduction was health care reform.

Let me repeat. The President had a two-pronged strategy to get our fiscal house in order, and one was the tax and budget plan that was passed and the second part was, unequivocally, health care reform. In fact, the President's promise of spending cuts in the context of health care reform was one of the arguments used to get Congress to approve the budget and tax bill which included rather significant new taxes. I believe it was the largest new tax increase in history. Nonetheless, whether it was number one or not, while he was selling this plan to the American people on television in July, during the news conference the President said:

> We need to bring the deficit down to zero. To do that we have to pass health care reform.

Now, the President was right in a sense. We cannot balance the Federal budget with health care costs growing as they are. It is literally fiscally impossible to balance the Federal budget with health care costs growing as they are.

Over the next 10 years, Medicare and Medicaid will grow at around 11 percent annually.

Now, I know some Senators listening and watching will say, "But, Senator, the goal of health care reform is to get that spiraling cost down."

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We will address that in a moment. In 1980, these programs that I just mentioned cost $48 billion, 9 percent of the budget, excluding interest. In 2004, one decade from now, believe it or not, they will cost $684 billion, 33 percent of the Federal budget, excluding net interest—10 years from now.

Between 1993 and 1999, as shown on this chart that I had put up here on my right, the Congressional Budget Office projects that the deficit will decline as a percent of the gross domestic product from 4 percent to 2.5 percent. But the entire 1.5 percent decline can be attributed to increased taxes and defense cuts.

Taxes will increase from 18.3 percent of our gross domestic product to 19 percent. Defense is cut by 1.6 percent of our gross domestic product. And with nondefense spending, the pattern is startling. Nonhealth-related mandatory spending and discretionary spending is expected to drop by almost 1 percent of the gross domestic product, seven-tenths of a percent. These are seven-tenths of a percent of our gross domestic product in excess of $5 trillion. So we are talking about a huge amount.

On the other hand, health-related mandatory spending will increase by 1.4 percent of the gross domestic product. With Medicare and Medicaid growing as they are, the deficit will exceed $380 billion in 2004, that time when I just described that the health care costs of our Federal Government's programs will be $684 billion as compared with the $48 billion 20 years prior thereto.

Clearly, it is obvious then that to get the deficit of the Federal budget under control, we ought to be focusing our attention on the health care entitlements, and what better time than while we are discussing health care reform.

I want to ask a question. If not health care reform, then what? Unfortunately, it is becoming increasingly clear that the administration and many Members of Congress are determined to spend every bit of savings from these Federal entitlements and more on new health care entitlements under health care reform. At the time our President issued his "vision of change" for America shortly after his inauguration, he was promising his health care plan would reduce the deficits by $300 billion to the year 2000. But the Congressional Budget Office estimates that the President's health reform plan will increase, not decrease, the deficit by $126 billion over the next 10 years. And the Cooper proposal is likely to cost just as much. In fact, none of the major reform plans make a dent in the budget deficit at all.

So I just came down here today to remind my colleagues that during the consideration of the budget resolution I propose, with Senator NUNN, to require a mere $20 billion in deficit reduction in health care reform instead of discretionary spending. I said, "Why don't we take $20 billion in existing restraints in the health-care programs and continue them on indefinitely, thus reducing the expenditures on health care by $20 billion?"

These were simple extensions of current law, mostly Medicare provisions that are scheduled to expire.

These savings would have been just 1.2 percent of the combined spending in Medicare and Medicaid over the next 5 years. But the Senate rejected even that meager deficit reduction with the discussion being we need every cent of that for the new health care reform.

If we are not going to reduce the deficit through health care reform, how are we going to reduce it? And I repeat the question. If not health care reform, then what? Raise taxes again? I do not believe the President will ask for that. I do not believe the American people will stand for that.

After we just had the tax increase that I have alluded to, would we dare say to the American people for deficit reduction we need another round of new taxes? No. I think that is out. Reinvention of Government or reinventing Government is thought to be a way to conserve and make simpler and smaller. It is now clear that if there are any savings from this effort, they are going to be used to meet the current discretionary caps and not reduce them. That is obvious. What we have done is to create a trust fund. And it may not even carry through both Houses and go to the President—saying let us take $22.8 billion of those savings from reinventing Government and spend it on the crime prevention programs of the country; not saving anything; spending them anew within the caps established on discretionary spending, leaving the deficit unaddressed precisely where we talked about it a few minutes ago.

Cut defense more? In just a short 4 years, and we will be devoting less than 3.2 percent of our gross domestic product to national security, a level not seen in over 50 years right before World War II.

Now I know that is merely a comparison of dollars spent versus our gross domestic product. But it bears thinking about. In just a short 4 years from now, 3.2 percent of our gross domestic product is all that we will be spending on national security. Not since just before the Second World War—50 years ago—will we be spending that small amount. I do not believe we can cut much more.

Cut Social Security? I do not believe we are going to tamper with that program in terms of substantial reductions. And I am not sure we should.

Again, if not any of those, where will the deficit reduction come from? I hope that I have made it clear that anyone

who responds to this message and says we are going to reduce the spiraling costs of health care as part of reform, we will stand up and say, and some of those savings, if they accrue, will go to the deficit, because thus far, the delta—that is, the difference—between the current spiraling costs and what we intend to get it down to, if ever health care reform works, is all going to be spent for more health care under the health care reform package.

UNIVERSAL COVERAGE AND MARKET-BASED REFORM

The primary obstacle to deficit reduction in health care reform is the desire to achieve "universal coverage".

Clearly, mandating health insurance coverage will require substantial subsidies—probably Federal subsidies—for low income families that cannot afford the premiums.

I support the concept of universal coverage where everyone is required to have major medical protection because it would improve equity. Everyone would have insurance, so we would eliminate the cost shifting that occurs today when an uninsured person gets expensive care but can't pay for it.

But making universal coverage the bottom line of health care reform is not only dangerous fiscally—it may also undermine market-based reform and lead to Government-run health care.

Market-based reform is inherently uncertain—costs and coverage will be determined largely by private sector decisions of consumers, insurers, and providers.

But to achieve universal coverage of a defined set of benefits by a date certain implies a certainty on costs that I am not sure is consistent with a market-based reform.

Moreover, CBO and others are understandably cautious about crediting market-based reforms with substantial savings because it is difficult to isolate the benefits of market forces in today's health care system.

I am very worried that these factors may lead some who want to achieve universal coverage this year to accept Government price controls, global budgets, or other measures that will undermine a market-based approach to cost control.

FISCALLY RESPONSIBLE HEALTH CARE REFORM

I believe we ought to take a different and more deliberate course.

Instead of rushing into a Government-run, universal system, I believe we should set in motion a series of market-based reforms that will move us a long way toward universality.

In general, I would create strong incentives for cost control in the private market and in Federal programs; devote a substantial portion of the savings from reform to deficit reduction; and set in motion a process by which other savings and revenues are redirected toward expanding coverage for the uninsured.

I ask unanimous consent that a chart that is equivalent to the one before the Senate be printed in the RECORD.

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

CURRENT POLICY FEDERAL BUDGET ESTIMATES AS A PERCENT OF GDP

	1993	1999	Change
Deficit	4.0	2.5	−1.5
Revenues	18.3	19.0	−0.6
Outlays	22.4	21.4	−1.0
Outlays by category:			
Defense	4.6	3.0	−1.6
Nondefense:			
Discretionary	3.9	3.7	−0.2
Mandatory: Health-related	3.5	4.9	+1.4
Retirement	5.9	5.8	−0.1
Other	1.3	0.9	−0.4
Subtotal nondefense	14.6	15.3	+0.7
Net interest	3.2	3.1	−0.1

Note.—Revenue increases are shown as negative because they reduce the deficit.

Source.—Congressional Budget Office (March 1994).

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 103–24

Mr. MITCHELL. Madam President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Document No. 103–24), transmitted to the Senate by the President on April 25, 1994; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to acceptance, I transmit herewith the Agreement to Promote Compliance With International Conservation and Management Measures by Fishing Vessels on the High Seas, which was adopted at Rome by consensus by the Conference of the United Nations Food and Agriculture Organization ("FAO") on November 24, 1993.

This Agreement was negotiated largely on the initiative of the United States, in response to the fisheries crises that have arisen in many corners of the world. In my view, it represents a significant breakthrough and offers the international community an opportunity to develop responsible fishing practices on a global basis. The Agreement once implemented, will begin to resolve many of the problems that have undermined the sustainability of high seas fishing resources. By becoming party to this Agreement, the United States would continue to demonstrate its commitment to preserving these resources and the livelihoods that depend on them.

The Agreement sets forth a broad range of obligations for Parties whose fishing vessels operate on the high seas, including the obligation to ensure that such vessels do not undermine international fishery conservation and management measures. Parties must also prohibit their vessels from fishing on the high seas without specific authorization and must take enforcement measures in respect of vessels that contravene requirements flowing from the Agreement.

The Agreement also creates an important role for the FAO as a clearinghouse of data relating to high seas fishing. Through the collection and dissemination of such data, it will be possible to improve our knowledge of all high seas fisheries, which is of critical importance if the international community is to protect these valuable resources successfully.

I recommend that the Senate gives early and favorable consideration to the Agreement and give its advice and consent to acceptance.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 25, 1994.*

CONFERENCE REPORT NO. 103–482 ON H.R. 2333

Mr. MITCHELL. Madam President, I ask unanimous consent that upon the receipt of a message from the House that the House has agreed to the conference report No. 103–482 on H.R. 2333, the State Department authorization bill, or a conference report that is identical to that conference report as filed in the House on April 25; that the conference report be considered agreed to and the motion to reconsider laid on the table, notwithstanding the recess or adjournment of the Senate.

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

Mr. PELL. Madam President, I am very pleased that the Senate is taking up the conference report on H.R. 2333, the Foreign Relations Authorization Act. The report contains the authorization of appropriations for the Department of State, the United States Information Agency, and the Board for International Broadcasting.

The legislation incorporates and endorses the administration's restructuring of the Department of State, most notably by enabling the establishment of the new position of Under Secretary for Global Affairs to oversee policy on many of the issues that transcend national borders.

In addition, the legislation consolidates U.S. Government international broadcasting. I am hopeful that this will enhance our broadcast services to

those regions where it is most needed while at the same time saving the taxpayers' money.

Madam President, there are a number of provisions that I have either authored or cosponsored in this legislation, but I would like to highlight just two. First, part A of title VII of the conference report contains provisions that will significantly strengthen the Arms Control and Disarmament Agency. I firmly believe that a revitalized ACDA will enhance our Nation's efforts to combat the proliferation of weapons of mass destruction.

Second, I have worked closely with Senator GLENN to craft legislation that will strengthen our Nation's nuclear nonproliferation policy. This has passed the Senate and House several times, and I am pleased that it is finally headed towards enactment.

Finally, I would note that the conference report authorizes the administration's request for a supplemental appropriation of $670 million for U.S. assessed dues for U.N. peacekeeping. Madam President, I firmly believe that the Congress and Executive Branch need to put U.S. financing for its U.N. obligations on a sound footing. This is a step in the right direction. More needs to be done. I look forward to working with my colleagues on this in the weeks to come.

Madam President, I urge the adoption of the conference report.

Mr. DOMENICI. Madam President, in my role as ranking Republican on the Appropriations Subcommittee on Commerce-Justice-State, I rise to discuss several provisions of the conference report on the Foreign Relations Authorization Act.

First, I am pleased that the conferees accepted a modification of my amendment to exempt signatories to the North American Free-Trade Agreement from the new visa fees that are authorized in the act. The provision retains the exemption, but provides the Secretary of State with discretionary authority to impose these fees if either Canada or Mexico charge a visa fee to citizens of the United States.

I would hope and expect that the State Department will only use such authority if it fails in attempts to persuade either Canada or Mexico to eliminate current or future visa fees. In my view, this authority should be used as a method of reducing fees that could impede cross-border traffic, not as an excuse to impose new fees.

In any event, I would expect the Department will not use such authority in the near future and that it will consult with Congress prior to any action in this regard.

I want to thank Senators PELL, KERRY, HELMS, and PRESSLER for their help in resolving this matter. I would also like to acknowledge the assistance of the chairman of the House Subcommittee on International Operations, Congressman HOWARD BERMAN, for his willingness to negotiate the terms of this compromise.

Second, I note the conferees have included a provision withholding 10 percent of the funds appropriated for the assessed contribution of the United States to the United Nations for 1994 until that organization has established an office of inspector general. The withholding rises to 20 percent in 1995.

The conference agreement is very similar to language I included in the 1994 State Department Appropriations Act. That provision, enacted into law as part of Public Law 103-121, already requires the withholding of 10 percent of the funds appropriated to the United Nations.

These funds can be released only upon a certification by the Secretary of State that the United Nations has established an independent office of inspector general. As a result, $29 million has been withheld pursuant to my amendment.

I hope the United Nations responds positively to these provisions. It is essential that it regain the confidence of the American people if it is to maintain an adequate funding base.

Once again, I congratulate the members of the conference committee for following the lead of the Appropriations Committee in the area of U.N. reform.

I would like to reiterate for the RECORD that Senate scorekeeping with regard to lease-purchase agreements is the exclusive jurisdiction of the Committee on the Budget. I would expect that the committee will continue to enforce the existing lease-purchase scorekeeping rules, without regard to language in the statement of managers on H.R. 2333 which suggests that special treatment should be accorded to the Department of State with regard to lease-purchase matters.

Mr. BIDEN. Madam President, I am pleased to support the conference report on the Foreign Relations Authorization Act for fiscal years 1994 and 1995. I want to commend the chairman of the Foreign Relations Committee, Senator PELL, and the ranking member, Senator HELMS. I would also like to express my appreciation to Senator KERRY, who skillfully steered the bill through the various stages of the legislative process.

I would like to call attention to title III of the bill, the U.S. International Broadcasting Act of 1994. This title reorganizes and consolidates all nonmilitary international broadcasting supported by the U.S. Government—the Voice of America, Radio Free Europe/Radio Liberty, Radio and TV Marti—under a single broadcasting board of governors, which will be responsible for supervising the operations of these entities.

Also under this structure will be a new Radio Free Asia, which is established in this legislation. As the Senate author of this provision, I am particularly pleased that this idea—which I first began working on nearly 3 years ago—is about to come to fruition.

In May 1991, I introduced legislation to establish a commission to examine whether the United States should initiate a surrogate radio service—on the model of Radio Free Europe and Radio Liberty [RFE/RL]—for the People's Republic of China. In September 1992, the Commission on Broadcasting to the People's Republic of China reported its findings. The commission unanimously recommended that the United States increase its surrogate broadcasting to China and the other Communist nations of Asia. Although the panel divided on the best means of achieving that goal, the message was clear—we need to expand our broadcasting in Asia.

Following the work of the commission, I introduced legislation to establish a Radio Free Asia, modeled on RFE/RL. The bill in the current Congress, S. 659, has 19 cosponsors, including the Senate majority leader, and the chairman and ranking member of the Foreign Relations Committee. Its central provisions are included in the conference report now before the Senate.

This initiative would not have succeeded but for the support of President Clinton. Although I am disappointed that the administration's budget request for Radio Free Asia for fiscal 1995 is only $10 million, I am heartened by the President's commitment to this concept.

The proposal to establish a Radio Free Asia is based on a proven model—Radio Free Europe and Radio Liberty—which for over four decades have broadcast to the nations of Eastern Europe and the former Soviet Union. The leaders of the new democracies in Eastern Europe—such as Vaclav Havel and Lech Walesa—have testified to the importance of RFE/RL in encouraging their democratic movements during the cold war. The radios, as they are known, heartened dissidents from Berlin to Bucharest, from Vilnius to Vladivostok, helping to fan the flame of freedom in the hearts and minds of citizens throughout the Soviet Empire—a flame that suddenly in 1989 became a torch and then a wildfire.

A Radio Free Asia, like RFE/RL, is designed to provide accurate news and information to the people living under Communist and dictatorial rule in east Asia. Foremost among these nations is China, where one-fifth of the world's population resides. Despite impressive economic liberalization in China, political freedom—including freedom of the press—remains under the tight control of the Communist Party. Indeed, it is an unchallenged fact that China severely represses press freedom. The State Department's annual report on

human rights describes the situation clearly:

Domestic television and radio broadcasting remain under party and government control and are used to propagate the currently acceptable ideological line.

The extent to which the Chinese people are thus kept ignorant about events in their own country was placed in perspective by Liu Binyan, a prominent Chinese dissident now in exile in the United States, in testimony before the Foreign Relations Committee in 1991:

According to an internal report of the Chinese Communist Party, in the two years after the Tiananmen massacre, there were more than 1,500 workers' strikes nationwide. In at least five provinces, underground workers' organizations emerged. There are 43 underground students' organizations in the universities in Beijing alone. But the vast majority of the Chinese people know nothing about all that I have just mentioned.

The situation in the other Communist countries in Asia is similarly repressive. Press freedom is virtually nonexistent, and the media are used largely as instruments of state policy.

During the public debate on this issue over the past several years, numerous myths have arisen about the establishment of a Radio Free Asia. I want to take a few minutes to put those myths to rest.

Myth no. 1: China is open. It is said that China's economic transformation has already made the Radio Free Asia proposal unnecessary—that China is so open and free that external broadcasting is not needed. This is patently false. China is indeed open to foreigners bringing investment. It is not open to strangers bringing foreign ideas.

If China is open and free, why then does it attempt to jam the Chinese language broadcasts of the Voice of America and the British Broadcasting Corporation? If China is so open and free, why then does it continue to arrest leading dissidents? If China is so open and free, why then do thousands of political prisoners languish in its jails? If China is so open and free, why then do millions suffer in brutal labor camps?

Just as economic liberalization, spurred by western investment, has reduced Beijing's role in the economy, broadcasting the truth about internal events in China will undermine the communist axiom that the state must control not only the lives of the people, but their every thought as well. This was the strategy we pursued with the Soviet Union and Eastern Europe: detente through business and cultural exchange, dissemination of accurate news and information through radio broadcasts.

Myth no. 2: Radio Free Asia will upset the Chinese. It is said that establishment of a Radio Free Asia will upset the Chinese Government, reinforcing its xenophobia tendencies. To be sure, China will be unhappy. But Beijing's petulance ought not to guide American policy. Moreover, this argument is made by people who contend—in the same breath—that we should increase Voice of America broadcasts. Even the Bush administration—well known for its zealous defense of Beijing—increased the budget for VOA programming to China.

Myth no. 3: There are already enough foreign broadcasts to China. It is said that there is already a plethora of foreign radio broadcasts to China, and that Radio Free Asia would be lost amid the cacophony of voices. This too is false. The Commission on Broadcasting to China examined this question closely.

There are some 350 hours of foreign broadcasts to China each day. A mere 15 percent—52 hours—is in Chinese languages. Of this, more than half is provided by two Taiwan services, which broadcast hard line propaganda and disinformation. What remains is the VOA and the BBC, and a smattering of hours on stations such as Radio France and Radio Canada. Of the 350 hours of foreign broadcasts to China, the commission reported, "the preponderance is related to developments outside China."

Myth no. 4: China isn't ready for democracy. It is often said that China is not ready for democracy. That is Confucian traditions make it unsuitable for democratic rule. And so on. This is not only false, it is an insult to the Chinese people. One need look only to Taiwan, where the Chinese people have dismantled an authoritarian state and are building a multiparty democratic structure. Or to Hong Kong, where the Chinese people have voted overwhelmingly for candidates committed to greater democracy. As Professor Andrew Nathan, a China scholar at Columbia University writes, "the theme of China's backwardness as a limit on democracy is as old as the Chinese desire for democracy."

One final concern often raised about the Radio Free Asia proposal is that no nation in Asia will permit the United States to use transmission facilities for these broadcasts. This proposition has yet to be tested. But when it is, I fully expect the State Department and the U.S. Information Agency to use their best efforts in seeking permission to use transmission facilities. In diplomacy, the medium is the message. If we send a low-ranking diplomat from an embassy to carry out a mission, we can expect the counterpart nation to treat our request accordingly—as a lower priority. I do not expect that Congress will micromanage this process. But suffice it to say that I hope that senior officials from State and USIA will carry the message to our friends and allies.

In closing, I want to underscore that Radio Free Asia must be a source of objective news and information. Accuracy must be its watchword. It must not be a source for propaganda. It must adhere to the highest standards of professional journalism. The standards and principles outlined in section 303 of the legislation are not makeweight, designed merely to fill the pages of the United States Code; they are designed to provide a clear mission statement for international broadcasting funded by the U.S. Government.

Madam President, Radio Free Asia is but one piece of a Clinton administration initiative to consolidate U.S. international broadcasting under the umbrella of the USIA. I am gratified that after a year of debate and discussion, the legislation to implement the President's proposal—which will transform our international broadcasting for the long-term, post-cold-war effort to promote democracy and U.S. interests around the world—is nearing enactment. I urge my colleagues to support the conference report.

Mr. BROWN. Madam President, as we move to adopt the State Department authorization conference report, I wanted to bring two points to the attention of the Senate.

First, I wanted to bring the attention of the members of this body to the waiver provision included in the Anti-Economic Discrimination Act of 1994 prohibiting sales of defense services or articles to countries enforcing the secondary or tertiary economic boycott of Israel. It is the expectation of this member, and of other members as well, that this waiver would be used very sparingly—if at all. If it were used, it is envisioned that it would only be used in instances in which a clear and convincing case can be made that use of the waiver will directly achieve progress in lifting the secondary and tertiary boycott of Israel. The waivers are generous so as not to tread too heavily on the President's ability to make foreign policy. But we expect the President, when and if he ever uses the waivers included in the legislation, to make a strong and unassailable case for their use that directly links the utility of his actions to ending the boycott.

Second, concerning the language in the bill urging the President to send cabinet-level appointees to the Republic of China on Taiwan. The language of the amendment also urges the President to take "steps to show clear United States support for Taiwan both in our bilateral relationship and in multilateral organizations of which the United States is a member."

Madam President, it is important that it be understood unequivocally that the members of the Conference and the members of the Senate, when passing this legislation, did not want simply to limit themselves to urging membership for the Republic of China just in the United Nations, or just in the GATT or just in any other particular international organization. But the United States is a member of all of

these organizations. It was the intent of the authors of the amendment to put the Congress squarely on record behind United States support for bringing the Republic of China into all international organizations as a regular member. Specifically, that support includes membership in both the United Nations and in the GATT, as well as a host of other international organizations.

Madam President, I would also like to thank Senator JESSE HELMS, Chairman PELL, Senator JOHN KERRY, and Senator LARRY PRESSLER for their efforts on this important piece of legislation, and the support of their staffs.

Madam President, I thank my colleagues and yield the floor.

TECHNICAL CORRECTIONS TO ENROLLMENT OF H.R. 2333

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 67, making corrections in the enrollment of the conference report on H.R. 2333, the State Department authorization bill; that the concurrent resolution be agreed to and the motion to reconsider be laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

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

The concurrent resolution (S. Con. Res. 67) is as follows:

S. CON RES. 67

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 2333) to authorize appropriations for the Department of State, the United States Information Agency, and related agencies, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 201(a) after paragraph (6) insert the following new paragraph:

(7) TITLE V OF PUBLIC LAW 98-164—To carry out title V of Public Law 98-164, $35,000,000 for the fiscal year 1994 and $35,000,000 for the fiscal year 1995.

(2) In section 140(a)(2), before the period at the end of the first sentence insert ", to recover the costs of providing consular services".

(3) In section 201(a)(1), strike "$473,488,000" and insert "$487,988,000" and strike "$480,362,000" and insert "$494,862,000".

(4) In section 101(b)(2), insert the following new subparagraph (F):

"(F) $2,000,000 is authorized to be appropriated for fiscal year 1995 for computer upgrades for the Bureau of Intelligence and Research."

(5) In Section 516, strike "Senate" and insert "Congress".

(6) In the Table of Contents, strike "Sec. 249" and insert "Sec. 239" immediately before "Increasing African participation in USIA exchange programs."

MODIFIED UNANIMOUS-CONSENT AGREEMENT—S. 2042

Mr. MITCHELL. Madam President, I ask unanimous consent that the previous unanimous consent governing consideration of S. 2042, relating to the arms embargo on Bosnia, be modified to reflect the following change: That the Senate proceed to the consideration of S. 2042 no later than the close of business on Thursday, May 5; with all other provisions of the previous agreement remaining in effect.

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

EULOGIES ON THE LIFE OF RICHARD M. NIXON

Mr. DOMENICI. Madam President, on behalf of Senator DOLE and Senator COVERDELL, I send to the desk a resolution relative to the compilation of eulogies on the life of Richard M. Nixon, former President of the United States, and ask for its immediate consideration; and that the resolution be agreed to and the motion to reconsider laid upon the table, and the preamble agreed to.

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

The resolution (S. Res. 206) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 206

Whereas, all American Presidents affect history in their own way, but few have made more history or shaped the history of their times more than Richard Nixon;

Whereas, millions of men and women across America and around the world mourn the death of the 37th President of the United States;

Whereas, he will be remembered for his foreign policy accomplishments, and for his dedication to peace;

Whereas, in his first inaugural address, President Nixon said "The greatest honor that history can bestow is the title peacemaker.";

Whereas, because of his efforts as President to improve relations with the then-Soviet Union, to bring China out of isolation, and to forge peace in the Middle East, Richard Nixon more than earned the title of peacemaker;

Whereas, he travelled the world, speaking on behalf of democracy, freedom, and peace;

Whereas, he proposed a landmark family assistance program, created the Environmental Protection Agency, expanding the Food Stamp Program, backed the innovative program called "revenue sharing," signed the Consumer Product Safety Act, and emphasized strengthening law enforcement;

Whereas, more and more Americans have come to appreciate President Nixon and his accomplishments;

Whereas, they admire him not because he was perfect, but because of his courage and perseverance, his intelligence and his vision, the fact that he loved his family and because he loved his country; and

Whereas, whether it was facing an anti-American mob in Venezuela, or going toe-to-toe with Khrushchev in the famed "kitchen debate," Richard Nixon always stood up for America: Therefore, be it

Resolved, That the Senate directs that the eulogies offered concerning the life of the Honorable Richard M. Nixon, former President of the United States, former Vice President of the United States, former Representative and former Senator from the State of California be bound and printed as a Senate Document.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the former President.

REGARDING THE CATASTROPHE IN RWANDA

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 207, submitted earlier today by Senators SIMON, JEFFORDS, KASSEBAUM, KENNEDY, and others, regarding the catastrophe in Rwanda; that the resolution and preamble be agreed to, the motions to reconsider be laid on the table, en bloc, and any statements thereon appear at the appropriate place in the RECORD as though read.

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

So the resolution (S. Res. 207) was agreed to.

The preamble was agreed to.

The resolution, with its preamble is as follows:

S. RES. 207

Whereas on April 6, 1994, Presidents Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed when their plane was shot down just outside Kigali, leading to an eruption of violence in Rwanda;

Whereas the systematic and indiscriminate massacre of civilians, estimated in the tens of thousands, is a crime against humanity;

Whereas the violence currently being perpetrated by the Rwandan government forces and their allied militias, as well as the Rwandan Patriotic Front, against members of both the Tutsi and Hutu ethnic groups is deplorable and violates all standards of human rights;

Whereas food shortages and lack of medical supplies in Rwanda, and the evacuation of humanitarian relief workers, has put millions of lives at risk;

Whereas a peace accord signed in Arusha by the Habyarimana government and the Rwandan Patriotic Front in August 1993 created the basis for formation of an integrated transitional government in Rwanda;

Whereas the United Nations Security Council voted in October 1993 to deploy a force of 2,500 peacekeepers, the United Nations Assistance Mission for Rwanda (UNAMIR) to assist in implementation of the Arusha accords;

Whereas tens of thousands of Rwandans have sought the protection of UNAMIR forces and refuge from the continuing violence;

Whereas a number of contributing nations have withdrawn their troop contingents from the UNAMIR operation and other nations contributing forces may follow suit; and

Whereas continued unrest and violence in Rwanda threatens the stability of the entire Central African region: Now, therefore, be it:

Resolved, That the Senate—

(1) deplores the brutal and systematic massacre of civilians and individuals sympathetic to the political opposition in Rwanda by the Rwandan military and associated

groups, as well as the Rwandan Patriotic Front—

(2) urges the United Nations and the Organization of African Unity to continue efforts to gain agreement on a credible cease-fire and to facilitate negotiations between the parties to the conflict, based upon the Arusha accords;

(3) calls on all parties, including the Rwandan army, related militias particularly, Colonel Bagosora, Colonel Augustin Bisimungu, Captain Pasqual Simbikangwa and Colonel Mpiranya as well as the Rwandan Patriotic Front

(A) to exercise restraint and control over their forces,

(B) to accede to an immediate and unconditional ceasefire,

(C) to respect such cease-fire and ensure the safety of innocent civilians,

(D) to guarantee free passage of humanitarian assistance to all in need of such aid, and

(E) to recommit themselves to the principles set forth in the Arusha accords;

(4) calls on the United Nations to consider carefully both military and diplomatic options which are consistent with the Arusha accords and will ensure the safety of innocent civilians, assist in monitoring an eventual cease-fire or peace agreement, facilitate the delivery of humanitarian relief, and ensure the viability of these options;

(5) commends President Clinton for his swift condemnation of and response to this crisis, and applauds the efforts of the United States Ambassador to Rwanda, David Rawson, in ensuring the safe and swift evacuation of Americans from Rwanda;

(6) urges President Clinton to continue diplomatic efforts at the highest levels to achieve prompt resolution of the political and humanitarian crisis in Rwanda.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

CRISIS IN RWANDA

Mr. SIMON. Madam President, I am pleased to submit this resolution expressing the sense of the Senate regarding the recent tragic events in Rwanda. I am joined in this effort by Senators JEFFORDS, KASSEBAUM, KENNEDY, FEINGOLD, WOFFORD, and PELL.

On April 6, 1994, President Juvenal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi were killed when their plane was shot down in Kigali. We have all heard the grim reports since that time—the eruption in Rwanda of brutal, systematic, and indiscriminate violence, resulting in the deaths of more than 100,000 people to date. These actions constitute genocide, and clearly violate all international standards of human rights.

President Clinton acted swiftly to condemn these acts and to evacuate some 250 Americans from Rwanda. The President and his senior advisers, particularly United States Ambassador to Rwanda David Rawson, are to be commended for their action. Other governments have also acted to rescue their citizens from the ensuing violence.

However, the lives of millions of Rwandans remain in jeopardy. Almost all foreigners and aid workers have been evacuated, resulting in the cessation of humanitarian relief to the hundreds of thousands of refugees that were already in Rwanda prior to this latest crisis—and who are dependent on international assistance. Millions more have been forced to flee their homes as a result of the recent massacres.

As the violence continued, tens of thousands of Rwandans sought the protection of the United Nations peacekeeping forces. The UNAMIR operation was deployed in Rwanda this past year to ensure implementation of the August 1993 Arusha accords, signed by the Rwandan Government and the rebel Rwandan Patriotic Front, which created the basis for installation of an integrated transitional government. At its peak, the UNAMIR force numbered 2,500.

Late last week, however, the U.N. Security Council voted to reduce the UNAMIR force to a mere 250 troops. And, as feared, the slaughter of innocent civilians has only continued.

This resolution puts the Senate on record as strongly deploring the actions by the perpetrators of the violence in Rwanda. It calls upon the United Nations, the United States, and the entire international community to act swiftly and in a capacity that will ensure the safety of civilians, the delivery of humanitarian relief, achieve an immediate cease-fire, and facilitate negotiations toward a lasting peace in Rwanda.

Madam President, I urge all of my colleagues in the Senate to join me in supporting this measure. The bloodshed in Rwanda is no less than genocide; we have a moral responsibility and a commitment under international law to stop it.

Finally, Madam President, I would like to recognize the bravery of a particular Rwandan national, Monique Mujawamariya, a human rights activist who was a target of the killers in Rwanda. Hers is an incredible story. After hiding for more than 40 hours in her house, she managed to escape from Rwanda with only the clothes on her back, and she has come to the United States to tell us her eyewitness account of the horrors going on in her country. We must listen to her story, and put an end to these horrors.

Mr. JEFFORDS. Mr. President, I rise today to join Senators SIMON, KASSEBAUM, KENNEDY, and others to submit a resolution regarding the current political and humantarian crisis in Rwanda.

Rwanda is a Central African nation which has long been wracked by violent ethnic unrest. In August of last year there seemed to be a glimmer of hope that the forces of reason would overcome the burden of history, as a historic agreement signed in Arusha, Tanzania, set forth the framework for peace between the Hutu-dominated government and the largely Tutsi rebels of the Patriotic Front.

Those aspirations were dealt a severe blow on April 6 when a plane transporting Rwandan President Juvenal Habyarimana and Burundian President Cyprien Ntaryamira to Kigali from Tanzania was blasted from the sky, apparently by an antiaircraft missile. While the actual facts of this incident are not yet known, it is clear that a crisis situation has developed.

News of the death of the President sparked violent attacks by Rwandan Government forces and militias sympathetic to those forces on members of the political opposition, principally on those from the minority Tutsi ethnic group, The situation can only be described as a massacre. In the early hours of the violence, troops of the elite Presidential Guard systematically hunted down and murdered opposition members of the government, human rights activists and slaughtered tens of thousands of innocent civilians. Meanwhile, rebels from the Tutsi-dominated Rwandan Patriotic Front continue their advance on the capital, Kigali. The fighting continues unabated.

The situation is extremely grave. Some credible estimates put the death toll at more than 100,000. Media reports describe the streets of Kigali as littered with rotting corpses. Western embassy staff have been evacuated. Western relief agencies have withdrawn their personnel, and humanitarian aid shipments have ceased. Food shortages and lack of medicines have put millions of lives at risk.

This crisis demands our immediate attention. Thousands of civilians are currently huddled in a sports stadium in Kigali, protection by a small—and shrinking—United Nations protection force. Hundreds of thousands more are in hiding from the ruthless security forces and militias.

We must not stand by silently. We must denounce these abhorrent acts. Please join my colleagues and me in support of this resolution which calls for an end to the violence, an end to the killing, an end to the suffering of innocent civilians, and a return to the principles of the Arusha Peace Accords.

UNANIMOUS-CONSENT AGREEMENT—S. 783

Mr. MITCHELL. Madam President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time prior to the close of business on May 27, turn to the consideration of S. 783, the Fair Credit Reporting Act.

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

MARINE MAMMAL PROTECTION ACT AMENDMENTS OF 1993

Mr. MITCHELL. Madam President, I ask that the Chair lay before the Sen-

ate a message from the House of Representatives on 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 PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 1636

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.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(b) RELATIONSHIP TO OTHER LAW.—Except as otherwise expressly provided, nothing in this Act is intended to amend, repeal, or otherwise affect any other provision of law.

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) IN GENERAL.—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 inserting 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";

(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 subparagraphs (B) and (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 or specific measures 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) 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 pursuant to a cooperative agreement under section 119.

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

"(I) permissible methods of taking by harassment 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 taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 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 taking for subsistence uses pursuant to subsection (b) or section 109(f) or pursuant to a cooperative agreement under section 119, and

"(III) requirements pertaining to the monitoring and reporting of such taking by harassment, 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 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 shall modify, suspend, or revoke an authorization if the Secretary finds that the provisions of clauses (i) or (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 taking by harassment that occurs in compliance with such authorization.

"(E)(i) During any period of up to 3 consecutive years, the Secretary shall allow the incidental, but not the intentional, taking 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 species 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 a 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 sec-

tion 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 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 significant 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.

"(vi) This subparagraph 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)."; and

(6) 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;

"(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.".

(b) ACTIONS AFFECTING SECTION 101(b).—Section 101(b) (16 U.S.C. 1371(b)) is amended by adding at the end the following new sentences: "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 of depletion under this subsection or finding regarding unmitigable adverse impacts under subsection (a)(5) 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.".

(c) TAKING IN DEFENSE OF SELF OR OTHERS.—Section 101(c) (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 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. The Secretary may seize and dispose of any carcass.".

SEC. 5. 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 adding at the end the following: "Permits for the incidental taking of marine mammals in the course of commercial fishing operations may only be issued as specifically provided for in sections 101(a)(5) or 306, or subsection (h) of this section.";

(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 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 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 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 injury to a species, stock, 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) 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 re-

search 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 shall issue a letter to the applicant confirming that the general authorization applies, or, if the proposed research is likely to result in the taking (including Level A harassment) of a marine mammal, shall notify the applicant that subparagraph (A) applies."; 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 but not imported 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 by the applicant. 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 the maintenance of the affected population stock at a sustainable level;

"(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).

"(C)(i) The Secretary shall undertake a scientific review of the impact of permits issued under this paragraph on the polar bear population stocks in Canada within 2 years after the date of enactment of this paragraph. The Secretary shall provide an opportunity for public comment during the course of such review, and shall include a response to such public comment in the final report on such review.

"(ii) The Secretary shall not issue permits under this paragraph after September 30, 1996, if the Secretary determines, based on the scientific review, that the issuance of permits under this paragraph is having a significant adverse impact on the polar bear population stocks in Canada. The Secretary may review such determination annually thereafter, in light of the best scientific information available, and shall complete the review not later than January 31 in any year a review is undertaken. The Secretary may issue permits under this paragraph whenever the Secretary determines, on the basis of such annual review, that the issuance of permits under this paragraph is not having a significant adverse impact on the polar bear population stocks in Canada.

"(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 population stocks are being adversely affected or that sport hunting may be having a detrimental effect on maintaining polar bear population stocks 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. 6. PURPOSE AND USE OF THE FUND.

Section 405 (16 U.S.C. 1421d), as so redesignated by this Act, is amended—

(1) in subsection (b)(1)(A)—

(A) by striking "and" at the end of clause (i); and

(B) by inserting at the end the following new clause:

"(iii) for care and maintenance of marine mammal seized under section 104(c)(2)(D); and"; and

(2) in subsection (d) by inserting after "For purposes of carrying out this title" the following: "and section 104(c)(2)(D)".

SEC. 7. REGULATIONS AND ADMINISTRATION; APPLICATION TO OTHER TREATIES AND CONVENTIONS.

(a) MEASURES FOR IMPACTS ON STRATEGIC STOCKS.—Section 112 (16 U.S.C. 1382) is amended by adding at the end the following new subsection:

"(e) If the Secretary determines, based on a stock assessment under section 117 or other significant new information obtained under this Act, that impacts on rookeries, mating grounds, or other areas of similar ecological significance to marine mammals may be causing the decline or impeding the recovery of a strategic stock, the Secretary may develop and implement conservation or management measures to alleviate those impacts. Such measures shall be developed and implemented after consultation with the Marine Mammal Commission and the appropriate Federal agencies and after notice and opportunity for public comment.".

(b) INTERNATIONAL POLAR BEAR CONSERVATION.—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. 8. CONSERVATION PLANS.

Section 115(b) (16 U.S.C. 1383b(b)) is amended by adding at the end the following new paragraph:

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

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENTS OF COMMERCE AND THE INTERIOR.—Section 116 is amended to read as follows:

"SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEPARTMENT OF COMMERCE.—(1) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out its functions and responsibilities under this title (other than sections 117 and 118) and title IV, $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, $20,000,000 for each of the fiscal years 1994 through 1999.

"(b) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out its functions and responsibilities under this title, $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.".

(b) MARINE MAMMAL COMMISSION.—Section 207 is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Marine Mammal Commission, for purposes of 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.".

(c) REPEAL.—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 and 1407), is repealed.

SEC. 10. STOCK ASSESSMENTS.

Title I (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, in consultation with the appropriate regional scientific review 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 human-caused mortality and serious injury of the stock by source and, for a strategic stock, 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 the appropriate standard 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 human-caused mortality and serious injury that is not likely to cause the stock to be reduced below its optimum sustainable population; or

"(B) is a strategic stock, with a description of the reasons therefor; and

"(6) estimate the potential biological removal level for the stock, describing the information used to calculate it, including the recovery factor.

"(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 shall review stock assessments in accordance with this subsection—

"(A) at least annually for stocks which are specified as strategic stocks;

"(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.

"(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 Marine Mammal Commission, the Governors of affected adjacent coastal States, regional fishery and wildlife management authorities, Alaska Native organizations and Indian tribes, and environmental and fishery groups, establish three independent regional scientific review groups representing Alaska, the Pacific Coast (including Hawaii), and the Atlantic Coast (including the Gulf of Mexico), 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 review group. The regional scientific review groups shall advise the Secretary on—

"(A) population estimates and the population status and trends of such stocks;

"(B) uncertainties and research needed regarding stock separation, abundance, or trends, and factors affecting the distribution, size, or productivity of the stock;

"(C) uncertainties and research needed regarding the species, number, ages, gender, and reproductive status of marine mammals;

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

"(E) the actual, expected, or potential impacts of habitat destruction, including marine pollution and natural environmental change, on specific marine mammal species or stocks, and for strategic stocks, appropriate conservation or management measures to alleviate any such impacts; and

"(F) 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.

"(4) The Secretary may appoint or reappoint individuals to the regional scientific review 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. 11. TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS.

Title I (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 subsection, the provisions of this section shall govern the incidental taking of ma-

rine 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 within 7 years after the date of enactment of this section.

"(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 species 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 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.

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

"(b) 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 7 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 and serious injury 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 additional information is required to accurately assess 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 (f).

"(c) 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(b)(1) and which is in existence on March 31, 1994 (along with an explanation of such changes and a statement describing the marine mammal stocks interacting with, and the approximate number of vessels or persons actively involved in, each such fishery), with respect to commercial fisheries 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 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 exemption 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 (e); and

"(iv) comply with any applicable 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 (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, 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 (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 (e), instances of incidental mortality or injury of marine mammals in the course of that fishery.

"(4)(A) 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 (e) 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 authorization under this section for an owner who complies with the requirements of this section.

"(B) 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.

"(C) The owner and master of a vessel which fails to comply with a take reduction plan shall be subject to the penalties of sections 105 and 107, and may be subject to section 106.

"(5)(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.

"(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. 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 (e); and

"(C) identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

"(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 and injury, 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 commercial 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 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 listed as endangered species 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 strategic stocks.

"(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) 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) The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not listed under subsection (c)(1)(A) (i) or (ii).

"(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 Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(9) 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.

"(e) 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.

"(f) TAKE REDUCTION PLANS.—(1) The Secretary shall develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock which interacts with a commercial fishery listed under subsection (c)(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 (c)(1)(A)(i) which the Secretary determines, after notice and opportunity for public comment, has a high level of mortality and serious injury across a number of such marine mammal stocks.

"(2) The immediate goal of a take reduction plan for a strategic stock shall be to reduce, within 6 months of its implementation, the incidental mortality 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 for that stock under section 117. The long-term goal of the plan shall be to reduce, within 5 years of its implementation, the incidental mortality 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.

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

"(4) Each take reduction plan shall include—

"(A) a review of the information in the final stock assessment published under section 117(b) and any substantial 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 or seriously injured each year during the course of commercial fishing operations, by fishery;

"(C) recommended regulatory or voluntary measures for the reduction of incidental mortality and serious injury;

"(D) recommended dates for achieving the specific objectives of the plan.

"(5)(A) For any stock in which incidental mortality and serious injury from commercial fisheries exceeds the potential biological removal level established under section 117, the plan shall include measures the Secretary expects will reduce, within 6 months of the plan's implementation, such mortality and serious injury to a level below the potential biological removal level.

"(B) For any stock in which human-caused mortality and serious injury exceeds the potential biological removal level, other than a stock to which subparagraph (A) applies, the plan shall include measures the Secretary expects will reduce, to the maximum extent practicable within 6 months of the plan's implementation, 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.

"(6)(A) At the earliest possible time (not later than 30 days) after the Secretary issues a final stock assessment under section 117(b) for a strategic stock, the Secretary shall, and for stocks that interact with a fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the Secretary may—

"(i) establish a 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 request a 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 take reduction teams shall have expertise regarding the conservation or biology of the marine mammal species which the take reduction plan will address, or the fishing practices which result in the incidental mortality and serious injury 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 spe-

cies 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.

"(D) 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.

"(E) Members of 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.

"(7) Where the human-caused mortality and serious injury from a strategic stock is estimated to be equal to or greater than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), the following procedures shall apply in the development of the take reduction plan for the stock:

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

"(ii) Such draft 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 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 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 take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

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

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the 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 take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the 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) Where the human-caused mortality and serious injury from a strategic stock is estimated to be less than the potential biological removal level established under section 117 for such stock and such stock interacts with a fishery listed under subsection (c)(1)(A) (i) or (ii), or for any marine mammal stocks which interact with a commercial fishery listed under subsection (c)(1)(A)(i) for which the Secretary has made a determination under paragraph (1), the following procedures shall apply in the development of the take reduction plan for such stock:

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

"(ii) Such draft 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 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 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 take reduction plan and implementing regulations, for public review and comment during a period of not to exceed 90 days.

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

"(D) The Secretary shall, during a period of 30 days after publication of a final take reduction plan, utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the requirements of the plan and how to comply with them.

"(E) The Secretary and the 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 take reduction plan until such time that the Secretary determines that the objectives of such plan have been met.

"(F) The Secretary shall amend the 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.

"(9) In implementing a take reduction plan developed pursuant to this subsection, the Secretary may, where necessary to implement a 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, in accordance with subsection (d), 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.

"(10)(A) Notwithstanding paragraph (6), in the case of any stock to which paragraph (1) 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 a take reduction team under paragraph (6) 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 a 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 take reduction team for such stock for the purpose of amending the 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 (7)(F) or (8)(F), as appropriate.

"(D) A draft stock assessment may only be used as the basis for a 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 a 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).

"(11) Take reduction plans developed under this section for a species or stock listed as a threatened species 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.

"(g) EMERGENCY REGULATIONS.—(1) If the Secretary finds that the 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 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 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 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 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 aaverse 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 (c)(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 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 on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), place observers on vessels in a commercial fishery listed under subsection (c)(1)(A)(iii), if the Secretary has reason to believe such vessels may be causing the 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 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.

"(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.

"(h) PENALTIES.—Except as provided in subsection (c), 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 shall establish by regulations.

"(i) 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 mortality and serious injury to insignificant levels approaching a zero mortality and serious injury rate.

"(j) CONTRIBUTIONS.—For purposes of carrying out this section, the Secretary may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

"(k) 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.

"(l) DEFINITIONS.—As used in this section and section 101(a)(5)(E), each of the terms 'fishery' and 'vessel of the United States' has the same meaning it does in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).".

SEC. 12. DEFINITIONS.

Section 3 (16 U.S.C. 1362) is amended by adding at the end the following:

"(18)(A) The term 'harassment' means any act of pursuit, torment, or annoyance which—

"(i) has the potential to injure 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, breathing, 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 'strategic stock' means a marine mammal stock—

"(A) for which the level of direct human-caused mortality exceeds the potential biological removal level;

"(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; or

"(C) which 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 designated as depleted under this Act.

"(20) The term 'potential biological removal level' means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. The potential biological removal level 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 of the stock at a small population size.

"(C) A recovery factor of between 0.1 and 1.0.

"(21) The term 'Regional Fishery Management Council' means a Regional Fishery Management Council established under section 302 of the Magnuson Fishery Conservation and Management Act.

"(22) 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.

"(23) 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.

"(24) The term 'take reduction plan' means a plan developed under section 118.

"(25) The term 'take reduction team' means a team established under section 118.

"(26) 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.

"(27) 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. 13. PENALTIES; PROHIBITIONS.

(a) CIVIL PENALTIES.—Section 105(a)(1) (16 U.S.C. 1375(a)(1)) is amended by inserting ", except as provided in section 118," after "thereunder".

(b) CRIMINAL PENALTIES.—Section 105(b) (16 U.S.C. 1375(b)) is amended by inserting "(except as provided in section 118)" after "thereunder".

(c) PROHIBITIONS.—Section 102(a) (16 U.S.C. 1372(a)) is amended by striking "and 114 of this title or title III" and inserting "114, and 118 of this title and title IV".

SEC. 14. 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(b) of this Act.

SEC. 15. TRANSITION RULE; IMPLEMENTING REGULATIONS.

(a) TRANSITION RULE.—Section 114(a)(1) (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 September 1, 1995, 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 by January 1, 1995.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3 (16 U.S.C. 1362) is amended—

(1) by striking paragraph (17); and

(2) by redesignating the second paragraph (15) and paragraph (16) as paragraphs (16) and (17), respectively.

(b) UNUSUAL MORTALITY EVENT FUND.—Section 405(a) (16 U.S.C. 1421d(a)), as so redesignated by this Act, is amended by striking "a fund" and inserting in lieu thereof "an interest bearing fund".

SEC. 17. 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, 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. 18. 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. 19. MARINE MAMMAL COOPERATIVE AGREEMENTS IN ALASKA.

Title I (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. 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 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 116.".

SEC. 20. 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 paragraph (1) shall be conducted in Alaska. The Secretary of Commerce 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. 21. 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. 22. 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 200 and NS-16. Such property shall include Pier R, the buildings known as RTC-1, RTC-4, 200, and 1874, all towers and outbuildings on that property, 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.

SEC. 23. PACIFIC COAST TASK FORCE; GULF OF MAINE.

Title I (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. PACIFIC COAST TASK FORCE; GULF OF MAINE.

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

"(b) APPLICATION.—(1) A State may apply to the Secretary to authorize the intentional lethal taking of individually identifiable pinnipeds which are having a significant negative impact on the decline or recovery of salmonid fishery stocks which—

"(A) have been listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(B) the Secretary finds are approaching threatened species or endangered species status (as those terms are defined in that Act); or

"(C) migrate through the Ballard Locks at Seattle, Washington.

"(2) 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 taking.

"(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 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 under paragraph (1), the Pinniped-Fishery Interaction Task Force shall—

"(A) recommend to the Secretary whether to approve or deny the proposed intentional lethal taking 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 such taking, criteria for evaluating the success of the action, and the duration of the intentional lethal taking 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 intentional lethal taking, 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 intentional lethal taking 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 Pinniped-Fishery Interaction 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 injury or impact to, 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 the intentional lethal taking of any pinniped from a species or stock that is—

"(1) listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(2) depleted under this Act; or

"(3) a strategic stock.

"(f) CALIFORNIA SEA LIONS AND PACIFIC HARBOR SEALS; INVESTIGATION AND REPORT.—

"(1) The Secretary shall engage in a scientific investigation to determine whether California sea lions and Pacific harbor seals—

"(A) are having a significant negative impact on the recovery of salmonid fishery stocks which have been listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or which the Secretary finds are approaching such endangered species or threatened species status; or

"(B) are having broader impacts on the coastal ecosystems of Washington, Oregon, and California.

The Secretary shall conclude this investigation and prepare a report on its results no later than October 1, 1995.

"(2) Upon completion of the scientific investigation required under paragraph (1), the Secretary shall enter into discussions with the Pacific States Marine Fisheries Commission, on behalf of the States of Washington, Oregon, and California, for the purpose of addressing any issues or problems identified as a result of the scientific investigation, and to develop recommendations to address such issues or problems. Any recommendations resulting from such discussions shall be submitted, along with the report, to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

"(3) The Secretary shall make the report and the recommendations submitted under paragraph (2) available to the public for review and comment for a period of 90 days.

"(4) There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the provisions of this subsection.

"(5) The amounts appropriated under section 308(c) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(c)) and allocated to the Pacific States Marine Fisheries Commission may be used by the Commission to participate in discussions with the Secretary under paragraph (2).

"(g) REGIONWIDE PINNIPED-FISHERY INTERACTION STUDY.—

"(1) The Secretary may 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 conducting the study, the Secretary shall consult with other State and Federal agencies with expertise in pinniped-fishery interaction. The study shall evaluate—

"(A) fish behavior in the presence of predators generally;

"(B) holding times and passage rates of anadromous fish stocks in areas where such fish are vulnerable to predation;

"(C) whether additional facilities exist, or could be reasonably developed, that could improve escapement for anadromous fish; and

"(D) other issues the Secretary considers relevant.

"(2) Subject to the availability of appropriations, the Secretary may, not later than 18 months after the commencement of the study under this subsection, transmit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) The study conducted under this subsection may not be used by the Secretary as a reason for delaying or deferring a determination or consideration under subsection (c) or (d).

"(h) GULF OF MAINE TASK FORCE.—The Secretary shall establish a Pinniped-Fishery Interaction Task Force to advise the Secretary on issues or problems regarding pinnipeds 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 of this section, the Secretary shall after notice and opportunity for public comment 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.

"(i) REQUIREMENTS APPLICABLE TO TASK FORCES.—(1) Any task force established under this section—

"(A) shall to the maximum extent practicable, consist of an equitable balance among representatives of resource user interests and nonuser interests; and

"(B) shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C.).

"(2) Meetings of any task force established under this section shall be open to the public, and prior notice of those meetings shall be given to the public by the task force in a timely fashion.

"(j) GULF OF MAINE HARBOR PORPOISE.—(1) Nothing in section 117 shall prevent the Secretary from publishing a stock assessment for Gulf of Maine harbor porpoise in an expedited fashion.

"(2) In developing and implementing a take reduction plan under section 118 for Gulf of Maine harbor porpoise, the Secretary shall consider all actions already taken to reduce incidental mortality and serious injury of such stock, and may, based on the recommendations of the take reduction team for such stock, modify the time period required for compliance with section 118(f)(5)(A), but in no case may such modification extend the date of compliance beyond April 1, 1997.".

SEC 24. FURTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATING TO DEFINITION OF SECRETARY.—

(1) EXECUTION OF PRIOR AMENDMENTS.—The amendments set forth in section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067)—

(A) are deemed to have been made by that section to section 3(12) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(12)); and

(B) shall not be considered to have been made by that section to section 3(11) of that Act (16 U.S.C. 1362(11)).

(2) FURTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 3(12)(B) of the Marine Mammal Protection Act of 1972, as deemed by paragraph (1)(A) of this subsection to have been amended by section 3004(b) of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067), is further amended in subparagraph (B) by striking "in title III" and inserting "in section 118 and title IV".

(b) MARINE MAMMAL HEALTH AND STRANDING RESPONSE.—The Act (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) FURTHER AMENDMENTS TO TITLE IV.—The Act (16 U.S.C. 1361 et seq.) is amended—

(1) in section 401(b)(3) (as redesignated by this section) by striking "304" and inserting "404";

(2) in section 405(b)(1)(A)(i) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(3) in section 406(a)(2)(A) (as redesignated by this section) by striking "304(b)" and inserting "404(b)";

(4) in section 406(a)(2)(B) (as redesignated by this section) by striking "304(c)" and inserting "404(c)";

(5) in section 408(1) (as redesignated by this section)—

(A) by striking "305" and inserting "405", and

(B) by striking "307" and inserting "407";

(6) in section 408(2) (as redesignated by this section) by striking "307" and inserting "407";

(7) in section 409(1) (as redesignated by this section) by striking "305(a)" and inserting "405(a)";

(8) in section 409(5) (as redesignated by this section) by striking "307(a)" and inserting "407(a)";

(9) in section 102(a) (16 U.S.C. 1372(a)) by striking "title III" and inserting "title IV";

(10) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by striking "title III" and inserting "title IV";

(11) in section 112(c) (16 U.S.C. 1382(c)) by striking "or title III" and inserting "or title IV"; and

(12) in the table of contents in the first section, by striking the items relating to the title that is redesignated by subsection (b) of this section and the sections that are redesignated by subsection (b) 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.".

(d) CLERICAL AMENDMENTS.—The portion of the table of contents in the first section of the Act relating to title I is amended by adding at the end the following new items:

"Sec. 117. Stock assessments.
"Sec. 118. Taking of marine mammals incidental to commercial fishing operations.

"Sec. 119. Marine mammal cooperative agreements in Alaska.

"Sec. 120. Pacific Coast Task Force; Gulf of Maine.".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if enacted as part of section 3004 of the Marine Mammal Health and Stranding Response Act (106 Stat. 5067).

SEC. 25. 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 May 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.

Mr. KERRY. Madam President, again and I hope and trust for the final time this term, I am joined by my good friend from Alaska, Senator TED STEVENS, in presenting to the Senate and supporting legislation to reauthorize the Marine Mammal Protection Act, S. 1636. Before us now is S. 1636 as amended by and passed unanimously in the House earlier today.

This legislation has gone back and forth between the Houses and has been passed in both on five separate occasions and in as many versions. I believe that, all things considered, the bill before us today is a strong environmental package that protects marine mammals and treats fairly all those who interact with them. This version is very similar to the bill passed unanimously by the Senate on March 25 with one additional provision on habitat protection which I will discuss later.

I would like to thank Congressman GERRY STUDDS, chairman of the Merchant Marine and Fisheries Committee, who has championed marine mammal protection for over two decades and who has worked very hard over the past several weeks to work out a compromise on the remaining outstanding issue of habitat protection. Among the numerous environmental organizations which were instrumental in securing the passage of this legislation, I would like to thank especially the Center for Marine Conservation and its staff members Suzanne Iudicello and Nina Young who provided support and information that made it possible for us to reach a compromise on a number of critical issues that are at the core of this legislation, a bill that I believe balances the concern for marine mammals in both the wild and captivity with the needs of the commercial fishing industry and others who interact with marine mammals.

My only regret is that, while we were able to amend the language on the importation of polar bear trophies into the United States from Canada in previous versions of S. 1636 sent from the House, we were unsuccessful in fully eliminating this language. The language we added to the House bill when the bill last was considered in the Senate several weeks ago included language which I worked out with colleagues providing for monitoring the effects on Canada's polar bear stock and guaranteeing the immediate cessation of imports should there be an indication of an adverse impact on the sustainability of the Canadian stock. Notwithstanding my personal preference not to permit any importation of polar bear trophies, with this additional polar bear protection language I believe the benefits of the overall MMPA package vastly outweigh the potential problems the polar bear provision may cause. If we fail to take action now on this bill before us, we sentence thousands of marine mammals to death and injury that could be avoided by the new regime the bill will establish.

The driving force in moving the Marine Mammal Protection Act amendments of 1994 was, in fact, the need to establish such a new regime to govern the interactions between marine mammals and commercial fisheries. The regime developed in S. 1636 is designed to ensure the safety of marine mammals and guarantee that threatened or depleted marine mammal populations will recover because of the following elements:

First, stock assessments: For the first time, the Agency is required to determine the status of every single marine mammal stock including whether the stock is healthy or is in any danger of declining; whether it is in need of some assistance because it is depleted, threatened, or endangered; or whether the level of human-caused mortality is greater than the annual population growth rate. The stock assessment is to be based upon data the National Marine Fisheries Service [NMFS] has gathered during the past 5 years.

Second, vessel registration: This bill would continue the current vessel registration system requiring all vessels with frequent or occasional interaction with marine mammals to register in order to be authorized to take marine mammals. This bill provides that, for the first time ever, the Secretary of Commerce has the authority to revoke an individual fisherman's authorization to take marine mammals if that fisherman does not comply with a take reduction plan. Also, for the first time ever, the individual fisherman may be fined for not complying with regulations designed to protect the marine mammal stock.

Third, observer coverage: This bill would require observers on board all vessels fishing in category 1 and category 2 fisheries, those fisheries that have frequent or occasional interaction with marine mammals. For the first time, the Secretary of Commerce could require observers to be placed on category 3 vessels—vessels which have a remote likelihood of interaction with marine mammals—if stock subject to such interaction is a threatened or endangered species.

Fourth, emergency regulatory authority: The bill provides the Secretary of Commerce, for the first time, with mandatory emergency authority to address any situation in which there is an immediate adverse impact on a strategic stock or a stock that is considered healthy but for some reason is declining.

Fifth, zero mortality rate goal: The bill has a zero mortality rate goal to be reached within 7 years of enactment. For the first time, the Secretary of Commerce is given regulatory authority to work toward achieving that goal, whereas the act currently only states the goal but specifies no deadline for compliance.

Sixth, take reduction teams and take reduction plans: The bill provides for creation of take reduction teams to develop plans to reduce the incidental taking of marine mammals. These plans are designed to actively reduce takes of stocks that are not healthy to a point where the stock will recover over a period of time.

Seventh, intentional taking of marine mammals: For the first time, this bill explicitly prohibits the intentional killing of marine mammals.

In addition, the legislation before us includes language to enhance protection of habitats critical to marine mammal populations. I would like to outline briefly this remaining outstanding provision. Prior to adjourning for Easter, this Chamber passed S. 1636 with substitute text reflecting agreement by Members of the House Merchant Marine and Fisheries Committee and Members of the Senate Committee on Commerce, Science, and Transportation. Unfortunately, there was one outstanding issue—an issue relating to habitat protection that raised concerns in the timber community. Subsequently, we agreed to extend the existing law for one more month with the understanding that it would be the last extension, and to work towards agreement on a new provision in S. 1636 addressing marine mammal habitat protection.

We have reached an agreement within the allotted time frame. This bill is the same as the legislation approved by the Senate prior to the Easter adjournment with the addition of this new provision. The language provides the National Marine Fisheries Service [NMFS] with explicit authority to protect marine mammal habitat. The language is intended to encourage the Agency to take the "further measures" to "protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effects of man's actions" a goal that is already stated as a policy of the MMPA. Of particular concern to the committee was the need for the Agency to obtain a better knowledge and understanding of the impacts of habitat destruction on spe-

cific marine mammal species and stocks. To address this concern, S. 1636 states that the regional scientific review groups must advise the Secretary on "actual, expected, or potential impacts of habitat destruction on specific marine mammal species or stocks". If habitat destruction is having an impact on a stock defined as "strategic," then the regional scientific review groups must make recommendations for appropriate conservation or management measures to alleviate the impacts.

Another concern for the committee, which has been addressed throughout the legislation, is ensuring that scarce Agency resources are committed where most needed. Consequently, while the Secretary maintains his existing broad general authority to regulate under section 112 of the existing act—section 112(a)—the new provision has been included providing the Secretary with explicit discretionary authority to develop and implement the conservation or management measures recommended by the regional scientific review groups for alleviating the specific habitat impacts related to defined strategic stocks.

Madam President, as I stated above, NMFS currently has general authority to alleviate such habitat impacts, and it has exercised this authority before. In the past, the Agency has established speed limits on vessels moving into and out of ports, approach standards for whales, and restrictions on fishing activities near rookeries. The agency has used the general authority provided in the MMPA to protect marine mammal habitat. Even though NMFS has made some progress in protecting marine mammal habitat, the current MMPA authority is not well defined. It is clear that significant new or expanded authority is not required for the agency to do its job in protecting marine mammal habitat; rather, there is a need to clarify and provide explicit authority in certain circumstances so the Agency can make better use of the tools it already has.

Finally, on this provision, let me say that the concern that arose prior to the Easter recess had to do with the method by which we were attempting to address the need for protection of marine mammal habitat and possible unintended consequences of that approach. We believe that this new language avoids such unintended consequences and will not affect other current statutes in any manner. In fact, we have added a specific disclaimer to the MMPA to make certain that the provisions of this legislation are not interpreted as amending, repealing, or affecting any other laws.

The Federal Government has spent 5 years operating under an interim exemption for commercial fisheries. The National Marine Fisheries Service has spent that time collecting data on marine mammal stocks and developing a new management regime to protect those stocks. The Congress has spent this session developing legislation to reauthorize the MMPA.

This amendment to S. 1636 is a bipartisan and bicameral effort that is the product of many months of hard work. The package 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 this statutory deadline of May 1. Therefore, it is critical that we pass this legislation today and send it on to President Clinton for his signature.

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 wee killed each year, intentionally from hunting and accidentally due to their interactions with commercial fishermen.

I am convinced that this reauthorization will strengthen our efforts and further reduce the mortality and serious injury our marine mammal stocks. I look forward to passage of this important environmental protection legislation.

Mr. HOLLINGS. Madam President, today we are considering S. 1636, the Marine Mammal Protection Act Amendments of 1994, as amended to reflect the agreement reached by the Senate and the House. This legislation was introduced by Senators KERRY, STEVENS, and PACKWOOD on November 8, 1993, and was reported favorably by the Commerce Committee last session. S. 1636 reauthorizes the Marine Mammal Protection Act [MMPA] for a period of 6 years, and amends the act to provide for a regime to govern the interactions between marine mammals and commercial fishermen. The text reflects careful consideration and balancing of the diverse and sometimes divergent viewpoints of the committee members. I believe the final product addresses the legitimate concerns of the various interest groups which participated in its development, including commercial fishing, public display, and scientific research. I commend my colleagues, Senator KERRY and Senator STEVENS, for their work in bringing together legislation that is bipartisan, and responsive to protecting marine mammals.

Madam President, I have stated before that when the Congress enacted the MMPA in 1972, there was considerable debate over how far we should go in protecting marine mammals. Some environmental extremists preferred tough restrictions which would have crippled our domestic fishing industry. Not surprisingly, the fishing industry favored no regulations at all. The debate centered on striking the proper balance between our national desire to both protect marine mammals and preserve important commercial fisheries. After long deliberation, we 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 bill will fine tune 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 timetables 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 to assist in recovery; a prohibition on 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 to control circumstances in which stocks are declining. The substitute amendment also reiterates the longstanding goal of the Marine Mammal Protection Act, "to reduce incidental mortality and serious injury from commercial fishing operations to insignificant rates approaching zero," establishing a 7-year timeline for that goal.

The proposed regime in S. 1636 is based on an agreement reached between representatives of the fishing industry and several conservation organizations after extensive negotiations. That agreement was fine-tuned further through extensive debate with conservation groups, animal protection groups, fishermen, the National Marine Fisheries Service, and the Marine Mammal Commission. I commend the representatives of both the fishing industry and those conservation organizations that continued to participate in legislative discussions and make constructive recommendations on S. 1636.

In summary, the MMPA Amendments of 1994 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.

Finally, Madam President, the House Merchant Marine and Fisheries Committee and the Senate Committee on Commerce, Science, and Transportation have been negotiating one final issue relating to marine mammal habitat protection during the past month. The issue of habitat protection is important, but it is only one aspect of this bill. We have extended the interim exemption twice while negotiating this and other provisions. That interim exemption expires this Sunday, May 1, 1994. With all of the issues resolved, it is time to pass this legislation. It is time to end the interim exemption and implement the new regime. Passage of S. 1636 reaffirms our commitment to preserving and protecting this remarkable group of animals. I urge my colleagues' support.

Mr. STEVENS. Madam President, I am pleased we have finally reached agreement on this legislation to reauthorize the Marine Mammal Protection Act and to create a permanent regime to govern commercial fisheries interactions with marine mammals. As I have said in earlier statements, this legislation is the culmination of over a year of work by Members of Congress, their staffs, the fishing industry, environmental groups, the Alaska Native community, the administration and other interested parties.

The version of S. 1636 passed by the House today includes language worked out between the Senate and House to replace an earlier House provision that would have amended the definition of "take" in the MMPA to include the term "harm." The compromise language clarifies the Secretary's general authority under the existing MMPA to protect habitat, and expands slightly a provision in the March 24, Senate-passed version of S. 1636 to allow the Regional Scientific Review Groups to make conservation and management recommendations in addition to identifying impacts on habitat.

We have also clarified in section 2 that nothing in S. 1636 is meant to amend, repeal, or otherwise affect other provisions of law, unless it has been expressly provided. A number of other noncontroversial changes and technical corrections have been made to the bill as well.

Madam President, I would like to again say that I think this legislation creates a framework the commercial fishing industry can work within, while at the same time allowing for the improved protection of marine mammals. The bill establishes a coherent system which should minimize the burden on fishermen while ensuring protection of marine mammal stocks. It will help focus scarce Federal resources where they can do the most good.

Fishermen in fisheries which have a remote likelihood of interaction with marine mammals, including threatened or endangered marine mammals where the Secretary determines that those fisheries will have no more than a negligible impact on those mammals, will not be subject to penalty under the Act, provided they report to the Secretary any incident that results in injury or death to a marine mammal.

To help the fishermen and the mammals, the Secretary is instructed under this Act to develop a standardized, postage paid, computer-readable form to facilitate reporting by fishermen and to speed analysis of the data collected. No longer will fishermen have to record these interactions in handwritten logbooks, which have simply collected dust in an agency warehouse.

More importantly, fishermen in fisheries which have occasional or frequent interaction with marine mammal stocks will obtain an annual authorization, in the form of a decal, as soon as they provide the Secretary with certain information concerning their vessel, gear, and the fisheries in which they engage. In addition, the fishermen must agree to carry an observer when requested by the Secretary, must comply with any take reduction plan that applies to their fishery, and must report injury or death of marine mammals. In exchange, fishermen that comply with these requirements are exempt from penalty under the Act for incidentally taking marine mammals.

In the case of threatened or endangered marine mammals, fishermen in fisheries which have occasional or frequent interaction with those mammals are similarly protected if they comply with any conditions or limitations contained in the permit that the Secretary must issue whenever the Secretary determines that those fisheries will have no more than a negligible impact on the threatened or endangered mammal stock.

This bill specifically states that in the case of threatened or endangered marine mammals, both section 101(a)(5)(E) and section 118 apply. The legislation links these two provisions because they are intended to apply in concert. Permits issued under section 101(a)(5)(E) should be integrated into the authorization requirements under section 118, so that fishermen can obtain both through the same process and with the minimum of additional paperwork. Likewise, any reporting, monitoring, or enforcement required to implement section 101(a)(5)(E) is specifically intended to be undertaken under the authority granted for those purposes in section 118. Fishermen that obtain both a permit and authorization, and comply with the requirements of both, are protected from penalty under the Act if they do incidentally take any marine mammal, including threatened or endangered marine mammals.

Madam President, I would also like to draw attention at this time to the colloquy that occurred on March 24 between this Senator, Senator HOLLINGS, Senator CHAFEE, and Senator BAUCUS concerning this legislation and the Endangered Species Act. Nothing in this revised version of the bill affects or amends the Endangered Species Act, and the understanding expressed in that colloquy remains applicable to the bill the Senate is now considering.

In closing, I would like to say thank you to Senator KERRY and the Senate staff—in particular Lila Helms and Penny Dalton of the majority committee staff, Trevor McCabe of the minority committee staff, and Earl Comstock of my staff—for their hard work and dedication in completing this reauthorization process.

Mr. MITCHELL. Madam President, I move that the Senate concur in the House amendment to the Senate amendment to the House amendment.

The motion was agreed to.

Mr. MITCHELL. Madam President, I move to reconsider that action.

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

The motion to lay on the table was agreed to.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. MITCHELL. Madam President, I ask unanimous consent that during the recess or adjournment of the Senate that Senate committees may file committee-reported legislative and executive calendar business on Friday, April 29, from 11 a.m. to 3 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECESS UNTIL 9 A.M. FRIDAY, APRIL 29, 1994, AND ORDER FOR ADJOURNMENT FROM FRIDAY UNTIL 3 P.M. MONDAY, MAY 2, 1994

ORDERS FOR MONDAY, MAY 2, 1994

Mr. MITCHELL. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Friday, April 29; that on Friday, the Senate

meet in pro forma session only; that at the close of the pro forma session, the Senate then stand adjourned until 3 p.m. on Monday May 2; that when the Senate reconvenes on Monday, the Journal of the proceedings be deemed approved to date, the call of the calendar be waived, no motions or resolutions come over under the rule, and the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 3:30 p.m., with Senators permitted to speak therein for up to 5 minutes each; that at 3:30 p.m., the Senate proceed to executive session to consider the nomination of William Reinsch; and that, upon the completion of debate on that nomination, the Senate then proceed to S. 783, the Fair Credit Reporting Act.

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

RECESS UNTIL 9 A.M., FRIDAY, APRIL 29, 1994

Mr. MITCHELL. Madam President, if there is no further business to come before the Senate today, and since no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:49 p.m., recessed until Friday, April 29, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate April 26, 1994:

THE JUDICIARY

HAROLD BAER, JR., OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE ROBERT W. SWEET, RETIRED.

DENISE COTE, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE MARY JOHNSON LOWE, RETIRED.

JOHN G. KOELTL, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE SHIRLEY WOHL KRAM, RETIRED.

JOHN CORBETT O'MEARA, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN, VICE HORACE W. GILMORE, RETIRED.

BARRINGTON D. PARKER, JR., OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE LEONARD B. SAND, RETIRED.

ROSEMARY S. POOLER, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE HOWARD G. MUNSON, RETIRED.

ROBERT J. TIMLIN, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

THOMASINA V. ROGERS, OF MARYLAND, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES FOR THE TERM OF 5 YEARS, VICE BRIAN C. GRIFFIN.

EXTENSIONS OF REMARKS

CONGRESSIONAL REFORM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. CLAY. Mr. Speaker, I am inserting in the RECORD views that I have submitted to the Subcommittee on Rules of the House regarding the recommendations of the Joint Committee on the Organization of Congress. I commend them to the attention of my colleagues.

DEAR CHAIRMAN BEILENSON: I am writing to express my views regarding the recommendations of the Joint Committee on the Organization of Congress. While I agree with many of the Joint Committee's recommendations, I believe other recommendations of the Joint Committee are ill considered and, if enacted, would be detrimental to the operation of the House of Representatives.

The most egregious of the Joint Committee's recommendations are the proposed changes in the referral of legislation, and the maximum number of committee assignments that Members may take and the recommendation that the Committee on Rules consider a resolution to eliminate any standing committee whose membership falls below 50% of its membership at the end of the 103d Congress. Taken together, these recommendations are an intentional, albeit indirect, attempt to eliminate several existing standing committees. I strongly feel such a consequence would be detrimental to the operation of the House, generally, and would be especially harmful to Members of the Congressional Black Caucus and the constituents we represent.

First, the effect of limiting committee assignments, without also limiting committee sizes, will be that some committee's will attract too many Members to afford Members sufficient opportunity to exercise any real influence within those committees. Junior and minority Members would be particularly disadvantaged as a result. In addition, such large committees are always unwieldy and are often inefficient or ineffective in their operation. The presence of too many Members not only limits the input of individual Members in the legislative process, but detracts from the ability of the Members to give detailed and considered reflection to the subjects before them.

As an illustration, on several occasions the Chairman and ranking minority Member of the Education and Labor Committee have worked out informal agreements limiting opening statements and the number of questions Members may ask during committee hearings. The more important the subject of the hearing or the witnesses before the committee, the more essential such informal agreements become. There are 42 Members on the Education and Labor Committee. Even if each Member adheres to the five-minute rule, it requires three-and-a-half hours simply to get through opening statements. Each round of questioning requires an additional three-and-a-half hours. The alternative to an informal agreement effectively limiting participation of Members in the hearing process is to require Cabinet officers and others to waste the better part of a day before they can even begin presenting their statements. While essential, such agreements substantially limit the quality and amount of information the hearing produces and significantly limit the ability of Members to represent the views of their constituents.

The limitation on committee assignments proposed by the Joint Committee, in the absence of any limitations on committee size, inevitably will discourage Members from taking assignments on so called minor committees, such as the Post Office and Civil Service Committee. Such a consequence does not reflect on the importance of the jurisdiction of the Committee on Post Office and Civil Service or the need for Congress to give considered deliberation to the policies it establishes for the Federal employee workforce and the United States Postal Service. As Vice President Gore's National Performance Review highlights, effective and efficient implementation of every policy and program the Congress enacts is dependent upon the extent to which the personnel needs of the Federal Government are identified and addressed. Nationwide, however, there are fewer than 3,000,000 Federal and postal employees. In all but a limited number of congressional districts, the direct impact of the policies developed by the Post Office and Civil Service Committee is minimal.

By contrast, the Federal Government provides less than 8% of the dollars spent on public elementary and secondary schools. Notwithstanding the fact that education policy is still primarily established at the State and local level, the relatively small amount of Federal dollars will, nevertheless, directly impact the country. Consequently, for most Members, the relative value within their districts of an assignment on the Education and Labor Committee versus the Committee on Post Office and Civil Service is clear. Though the work of the Post Office and Civil Service Committee is no less essential, the apparent value to constituents, and therefore the political rewards, of an assignment to the Education and Labor Committee are substantially greater.

I am not opposed to limiting to two the number of committees on which a Member may serve if, in the wisdom of a majority of the House, it is determined that such a limitation would enhance efficiency. (It should be noted, however, that the House has done relatively well in limiting committee assignments. This is mainly a Senate problem.) However, I am strongly opposed to limiting assignments if the sizes of the committees are not adjusted to enable all standing committees to be assigned a sufficient number of Members.

Assuming current committees sizes and assuming further that those Democrats currently serving on the exclusive committees retain those assignments are not permitted to take additional assignments, when the remaining Democratic Members are multiplied by two (the proposed limit on committees assignments), approximately 96 positions on the non-exclusive committees will be left vacant. Unless a rule limiting committee size is adopted, it will be impossible to fill those 96 vacancies and the Rules Committee necessarily will have to consider a resolution eliminating certain standing committees. (Though it is unclear from the Joint Committee report, I am assuming that Members serving on exclusive committees will be prohibited from serving on other committees. Permitting Members of the Rules Committee, for example, to take an additional assignment, does not, in my view, eliminate the need to restrict committee sizes and raises a host of additional concerns as well.)

Among the committees that I perceive to be at risk are the Committee on Small Business, the Committee on the District of Columbia, the Committee on Post Office and Civil Service, the Committee on the Judiciary, and the Committee on Government Operations. These committees are particularly important to Members of the Congressional Black Caucus and the constituents we represent.

While blacks constitute 15 percent of the Democratic Members of the House, only three Members of the Caucus hold full committee chairs, only a single Member of the Caucus holds an appointed position within the party leadership, and no Member of the Caucus holds an elected position within the party leadership. In my view, failing to place a limit on committee size is tantamount to recommending that the jurisdictions of the Committee on Post Office and Civil Service and the Committee on Government Operations be combined. Both committees are likely to be chaired by representatives of groups who historically have been absent from leadership positions in the House. Not only would the combining of those committees severely diminish the effectiveness and ability of each of those committees to fulfill their jurisdictional responsibilities, but it would produce an unacceptable diminution in the influence women and blacks are able to exert in Congress.

The larger membership of the House of Representatives automatically confers certain advantages and disadvantages as compared to the Senate. Simply because of the greater number of Members, as a general matter, an individual member of the House will not exercise the same degree of influence on legislation that an individual Senator will. However, because of its greater size, House Members have the luxury of being able to specialize to a greater degree than our colleagues in the Senate. The means by which the House encourages and achieves this specialization is through its committee structure. To further diminish the number of committees in the House is to surrender the singular advantage that the House possesses. The consequence is to diminish the quality of consideration that Congress, as a whole, is able to give to legislation.

The Joint Committee has recommended that the Speaker designate a "primary" committee of jurisdiction when a matter is jointly referred and impose time and subject matter restrictions on the other committees of referral after the primary committee re-

ports the matter. Considered in conjunction with the proposal to limit committee assignments, the recommendation further encourages Members to seek assignment to major committees and avoid minor committees.

Major committees, because of their broader jurisdiction, are more likely to be designated as primary committees. For two different reasons, the autonomy of those committees more likely to receive "secondary" referrals may be severely compromised. First, the secondary committees lose discretion to establish their own agendas. In most instances, the primary committee will establish the schedule for the consideration of legislation that has been jointly referred. There are only two means by which the secondary committee can seek to protect its autonomy over its legislative agenda. It may forego consideration of jointly referred legislation, thereby forfeiting its jurisdictional authority; or it may seek to control its agenda by reporting the legislation before the primary committee has acted on it. While the second option may provide the secondary committee greater flexibility in determining when legislation pending before it will be considered, it may also effectively require the secondary committee to postpone consideration of other more important or urgent legislation.

Even more problematic is the fact that the designation of primary committees and time-limited referrals to secondary committees may effectively eliminate the ability of secondary committees to exercise authority over matters within their jurisdiction. Under current House procedures, when a committee decides not to report legislation, the sponsor of that legislation has very limited options by which he or she may seek to overcome the determination of the committee. The Member may seek support for a discharge petition or the Member may seek to persuade the Senate to attach the proposal to legislation it is considering. The recommendation of the Joint Committee provides Members with a third, potentially more effective, means by which the consideration of the committee of jurisdiction may be circumvented. By placing the proposal in a vehicle within the "primary" jurisdiction of another committee, the determination of whether the proposal will be considered by the full House and in what context is effectively transferred from the secondary committee, which possesses the expertise on the subject matter of the proposal, to the primary committee.

Notwithstanding the above comments, I fully support that part of the Joint Committee's recommendation directing the Speaker, in the case of joint referrals, to specify the responsibilities of each committee and impose subject matter restrictions on committees. I concur in the view of the Joint Committee that the adoption of this recommendation would serve to minimize duplication, increase accountability, and deter committees from encroaching on the jurisdiction of other committees.

There are two additional recommendations of the Joint Committee that in my view will adversely impact on committee operations. The Joint Committee has proposed that each standing committee be required to prepare an oversight agenda at the beginning of each Congress and file a report at the conclusion of that Congress on how its agenda was fulfilled. The Joint Committee further proposes that the initial report, to be filed by March 1 of each new Congress, be filed with the Committee on House Administration for use during the committee funding process. Essentially, this proposal requires a committee to develop an oversight agenda, at the beginning of the Congress, well before the committee has had the opportunity to determine what the most important issues pending before it may be and then proposes that the committee be held accountable for achieving an agenda that, at best, has been prematurely established.

It has been my practice to develop the committee's oversight agenda in consultation with the ranking minority Member, the subcommittee chairs, and other Members of the committee. Indeed, upon initially assuming the chair of the Post Office and Civil Service Committee, such consultations were not simply desirable, they were essential. Requiring the establishment of an oversight agenda very early in the first session of a Congress unduly limits the ability of Members to assess the needs of our constituents and may effectively require the committee chair to establish the agenda arbitrarily before he or she has had an opportunity to consult with committee Members. The Joint Committee has suggested that the committees may request the assistance of CRS and GAO in developing their agendas. While I have found that those organizations can be very helpful, I do not feel they constitute an appropriate substitute for input from committee Members.

The Joint Committee recommendation apparently contemplates that the House Administration Committee, in conjunction with the Committee on Government Operations, will act to coordinate the various oversight agendas submitted to it, the purpose being to eliminate duplicative hearings. I disagree with the Joint Committee's view regarding the inefficacy of "redundant" hearings. Numerous committees have held hearings on the subject of health care reform in this Congress. In my view, the ability of a broad range of Members to participate in the hearing process has promoted Congressional understanding of this vital issue. I also have serious concerns about the extent to which the House Administration and Government Operations Committees would coordinate oversight agendas.

The Joint Committee recommends that committees be required to hold oversight hearings on reports issued by inspectors general, GAO, and others. According to the Joint Committee, "Requiring the committees of jurisdiction to conduct hearings on appropriate reports issued during the preceding Congress by, for example, the GAO or the inspectors general will help assure that Members and the public are made aware of management issues and recommendations for corrective action." I am unaware of any committee that does not hold hearings on "appropriate" reports by GAO and others, normally in the same Congress that the report is issued. It would appear that the Joint Committee is dissatisfied with the ability of committees to establish their own oversight agendas and is seeking to transfer that responsibility to others. If this is the Joint Committee's position, I strongly disagree with the assessment and the proposed solution.

Finally, the Joint Committee recommends that the Speaker appoint a task force to issue recommendations on achieving savings in the cost of the legislative branch consistent with the reductions implemented by the executive branch under the National Performance Review. The National Performance Review recommended a reduction of 252,000 Federal employees by the end of 1999. As Chairman of the Committee on Post Office and Civil Service, I have endeavored to ascertain the basis for this recommendation. As nearly as I can tell, the recommendation to reduce the Federal workforce by 252,000 employees was based solely on a desire to project a workforce figure below 2,000,000 by the end of fiscal year 1999. To the extent that the executive branch is undergoing retrenchment, the Congress, as a matter of political necessity, will have to undertake similar steps. It is my hope, however, that such reductions would be based upon a realistic assessment of the needs of the institution. There is no basis for assuming that an arbitrary 12 percent staff reduction is appropriate in either the legislative or executive branch.

I sincerely appreciate the opportunity to express my views on these matters.

CONGRESSMAN KILDEE HONORS CYNTHIA PERRY RAY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KILDEE. Mr. Speaker, I rise before you today to pay tribute to an exceptional American, Mrs. Cynthia Perry Ray. On Sunday, April 24, 1994, I will join the members of the Crystal Lake District Association at Trinity Missionary Church in Pontiac, MI to recognize Mrs. Ray's numerous achievements.

Cynthia Perry Ray, a native of Pennsylvania, moved to her present home in Brooklyn, NY in 1968 to be with her new husband, Dr. Sandy F. Ray, the late pastor of Cornerstone Missionary Baptist Church. As the "First Lady" of Cornerstone Baptist, Mrs. Ray became involved in many activities focusing on the spiritual enrichment of the congregation as well as the community at large.

Mrs. Ray serves as a missionary and instructor during religious emphasis week. She founded the Agape Feast which is held annually on the Thursday prior to Good Friday after prayer services. Cynthia Ray also works on the local, national and international levels to promote Christian fellowship and leadership among our youth.

Cynthia Perry Ray currently holds the position of first vice-president of the National Baptist Convention Incorporated Women's Auxiliary. Mrs. Ray has served in this position since September 1992. Emulating the name of her home church, Cynthia Ray has been a cornerstone of the women's auxiliary since becoming a member. Before attaining the position of first vice-president, she served as its corresponding secretary as well as its third and second vice-president.

In addition to her current position with the National Baptist Convention, Cynthia Perry Ray has served on the board of directors of the American Bible Society. She is the past president of Church Women United and the former principal of the Mount Pistah Christian Academy in Brooklyn, NY. Mrs. Ray continues to serve as dean of the International association of Ministers Wives and Ministers Widows and is a life member of the National Council of Negro Women. She is a life member of the Women's Convention Auxiliary of the National Baptist Convention USA Inc. Amazingly, she

continues to work as an elementary school teacher in the Brooklyn, NY public schools.

Cynthia Perry Ray has received numerous awards over the years including the Allen Jordan Movement Award in February 1993. In September 1993, she received the Business and Professional Women's Dr. Sandy Ray Humanitarian Award, joining the ranks of noted post recipients such as Dr. Benjamin Hooks and U.S. Representative CHARLES RANGEL.

Cynthia Perry Ray and her husband, Dr. Sandy Ray, worked tirelessly to instill a strong sense of Christian values in their children. Mrs. Ray continues to provide spiritual guidance for her family and is a proud mother, grandmother, and great-grandmother. Despite her extremely busy schedule, Cynthia Ray still finds time to design and make her own clothes. Mrs. Ray is also an avid golfer.

Mr. Speaker, it is a great honor for me to rise before you and my fellow Members of the 103d Congress to honor Mrs. Cynthia Perry Ray. Her life's story has been an inspiration to me and should serve as an example for all Americans.

RUTH VAN CLEVE RETIRES

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. DE LUGO. Mr. Speaker, for many years, the Interior Department has had the task of being the Federal Government's primary agency for handling Federal responsibilities regarding territories. Its principal mission in this regard has been to help the territories develop to the point where they could assume the responsibilities of local self-government themselves.

In recent decades, Interior's role regarding the territories has diminished as the insular areas have developed. In fact, its territories mission is now being reconsidered because of greater self-government in the insular areas, growth in their economies, and the extension of Federal programs to them.

At the same time, there is an increasing consensus that there should be a new structure for relating to the areas. Many of us think that it should reflect their development and accord them the recognition that States receive while still ensuring the special attention they need in the Federal decisionmaking process because of the power that they lack in it.

No one individual who has been in Interior deserves more of the credit for it fulfilling its past territories assignment, though, than a woman who recently retired from the Department, Ruth Van Cleve. Over 35 of almost 43 years of truly distinguished service, Ruth became so much a part of what Interior did regarding territories that she personified its territories functions for many of us—that is those that were good and made sense and worked well.

As a matter of fact, Ruth Van Cleve wrote the book entitled "The Office of Territorial Affairs" during her brief tenure away from territories responsibilities during the Nixon and Ford administrations. An excellent explanation of both the Office and the insular areas that it dealt with at the time, the book revealed her empathy for the peoples of the islands as well as her understanding of the complexities of the job.

The Territories Office has always been a relatively small part of Interior, even when its responsibilities were much more extensive than they are now. Yet, it has been in one of the most difficult positions in the Government. It has had to help territories develop and been called to account for conditions in them at the same time that it has lost its authority to supervise islands and to be a link between them and the rest of the Federal Government.

Ruth was sensitive to this changing role and respectful of local decisions.

She is, perhaps, best known as the Director of the Office during most of the Johnson and Carter administrations. Given how she conducted herself and what she helped to achieve, I can easily say that the Office has had no better head in the four decades that I have been dealing with it.

She also served the Federal Government admirably while being as sympathetic to the insular perspective as possible.

She towed the line of administrations while still ensuring that we understood what was needed regarding the terrotiries—even if it wasn't supported by the executive branch.

I never remember her varying from the official position; but I also remember her consistently making the Congress aware of what it wanted to know and should know. She did her job well in acting both on behalf of Federal interests and those of the people of the islands.

Ruth became a Deputy Assistant Secretary for Territorial and International Affairs through President Carter's effort to improve and upgrade the way that territorial matters were handled in the executive branch. She helped develop this initiative which recognized the self-government that the territories had assumed, that agencies other than Interior were increasingly responsible for the programs affecting the territories, and that Interior's territories mission had been limited to providing specified developmental assistance and to helping work out further self-government arrangements.

Ruth was shifted back to the solicitor's office—where she had begun her territories career—at the end of the Carter administration so that her vast institutional knowledge and capabilities would not be lost.

Persident Carter had proposed a review of all Federal laws applying to the insular areas and she was assigned that enormous task. The purpose was to develop recommendations on what changes in policy should be made in light of the political, economic, and social circumstances of the insular areas, especially where they differed from those of the States.

Ruth delayed her retirement from Government until she could complete the laborious assignment of going through every part of the Federal Code. She retired shortly after the completion of a 1,468 page report written in her distinctive, precise, and pleasurable-to-read style. It will be a very valuable reference tool although I think that some of the recommendations that she might otherwise have made may have been sanitized out by others.

Mr. Speaker, the term "bureaucrat" is generally used in a negative way; but Ruth Van Cleve was a bureaucrat who exemplified everything that a civil servant should be. She was professional, knowledgeable, effective, concerned, and serious about doing the people's business. She also is a person of good humor, common sense, compassion, and exceptional communications skills.

She made a difference and she is missed. I wish her well in retirement.

EVGENIYA KUNINA, IN REFUSAL UNTIL 1999

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. HOYER. Mr. Speaker, I rise to call attention to an issue that many of us had thought would expire with the demise of the cold war.

While I was visiting St. Petersburg, Russia recently with the majority leader, I met Evgeniya Kunina, a citizen of the Russian Federation from St. Petersburg, who has been denied permission to emigrate to America with her husband in order to reunite with their son Mikhail. According to OVIR, the office that issues emigration documents, Mrs. Kunina may not leave Russia until 1999, as she allegedly possesses state secrets which she obtained through working in the St. Petersburg research and production corporation, Impuls.

It is important to note here that Mrs. Kunina quit her job at Impuls in February 1991. Thus, OVIR is saying she has to remain hostage in Russia for 8 years after she left her allegedly classified employment. I would note that under Russian law employees of classified institutions are by law notified prior to employment that they may not be able to leave for 5 years. In this era of scientific exchange, openness, and technological progress, the 8-year determination appears arbitrary and the result of personal antagonism rather than scientific considerations.

In a statement issued by the Russian Embassy in Washington, DC, in 1993, the Russian Government noted that the legacy of "refuseniks" in the Soviet Union was dealt with "in no hurry and very inconsistently." It would appear that Mrs. Kunina is an unfortunate victim of this legacy.

Certainly, the number of "refuseniks" has plummeted since the collapse of communism, but that must be cold comfort for a woman who has been told she will be unable to join her son for another 5 years. I urge the Russian Government to allow Mrs. Kunina to emigrate with her husband and join their son here in the United States.

MICHAEL JOHN KELLY—MAKING A DIFFERENCE IN HAYWARD, CA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. STARK. Mr. Speaker, a very special third grader from my district was honored last

Thursday with a Make A Difference Day Award. Michael Kelly is the youngest recipient of 10 who were honored by USA Weekend magazine for their actions to bring positive change to the lives of others.

Michael's mother, Carmen Lamkin, was homeless when he was born. While they have an apartment now, the family has struggled in recent years to make ends meet, occasionally falling short in the tough California economy. This has brought them to local shelters and soup kitchens for assistance, where they found help and compassion, not indignity. When Michael read about Make a Difference Day, he knew that he wanted to do something for those who rely on shelters and soup kitchens—the men, women, and children he sees lined up outside every day.

Using his entire $2 weekly allowance at the copy store, the 8-year old duplicated a letter to merchants and neighbors asking for old clothes and household goods. Whenever a small sum came his way, he made more copies and walked blocks soliciting help. For the 6 weeks prior to Make A Difference Day, Michael would direct his mother to yard sales asking for donated leftovers, which piled up in their living room.

On the big day, Michael's efforts paid off. He and his family collected two truckloads of clothes, furniture, pots, pans, and more and took them down to the Full Gospel Ministry. The staff at the ministry were certainly stunned by the size of the gift, but the fact that one third-grader could put such an effort together left them in awe. Now Michael and his mom volunteer at the shelter regularly and always bring a trash bag of donated goods that keep coming in from their Hayward neighbors. Michael has also chosen to donate the $1,000 that comes with his award to the Full Gospel Ministry to continue their important work for the neediest in the East Bay.

Mr. Speaker, it is said that life is the greatest teacher. I am heartened that Michael's lessons have made him caring and compassionate, able to see human needs and lend an energetic hand to meet them head on. In accepting his award, Michael said he wants to end homelessness, crime, and racism in his lifetime. If anyone can do it, it's Michael John Kelly. I am proud of him and know that he can make a difference.

CORRESPONDENCE RELATING TO THE CLINTON'S PARTICIPATION IN THE VALUEPARTNERS I HEDGE FUND

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. LIVINGSTON. Mr. Speaker, lots of press attention has been given the exchange of correspondence relating to the Clinton's participation in the ValuePartners I hedge fund. Some of these reports have been inaccurate. So in order to clarify the record, Congressman GEORGE GEKAS and Congressman CHRIS COX join me to introduce into the RECORD correspondence between us and the Office of Government Ethics.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 17, 1994.

Mr. STEPHEN D. POTTS,
Director, U.S. Office of Governmental Ethics, Washington, DC.

DEAR MR. POTTS: This letter is to bring to your attention certain relevant disclosures made by William Smith, the general partner of ValuePartners I, which have been published since our March 9, 1994 letter to you.

1. During a CNBC interview on March 11, 1994, Mr. Smith stated that he advised Bill and Hillary Rodham Clinton to form a blind trust during 1992. (As recounted in our previous letter, this step was not taken until July 1993.)

2. During the same broadcast, Mr. Smith acknowledged that certain of the stock issues in which Ms. Rodham Clinton's partnership took short positions were so-called "penny stocks"—those with share prices so low that short selling can unduly affect market prices.

3. Mr. Smith also stated in the CNBC interview that James McDougal is not, and has not ever been, one of his clients. The information to the contrary provided in a footnote to our earlier letter was based upon a McDougal balance sheet, obtained from the FDIC, that listed three investments as "Value Partnership." This was apparently mere coincidence and should, therefore, be disregarded. Mr. Smith also stated that he ceased reporting specific short positions to the partners in May 1992. In fact, however, the Form 278 filed by President Clinton on May 14, 1993, included a report from Smith Capital listing specific short sales as of December 31, 1992.

4. During the same CNBC broadcast, Mr. Smith expressed his willingness to provide information. While we have responded by making the enclosed request for documents of Mr. Smith, it is far more appropriate for OGE to be conducting this aspect of the investigation. We therefore renew our request that you do so.

An editorial in the March 21, 1994 Newsweek opined that "it's hard to imagine that Hillary knew one of her investment funds was selling a few health care stocks short before her attack on drug companies. Besides, the fund lost more on health stocks it held." We note that both of these alleged "facts" are not in evidence. To the contrary, the content of the six quarterly reports provided by Mr. Smith to Ms. Rodham Clinton, between July 1992 and July 1993, the telephone conversations between Mr. Smith and Ms. Rodham Clinton, and her staff, and similar evidence all will establish whether she had knowledge of her financial interest in these transactions for purposes of Section 208. This is precisely why investigation is required. Likewise, it is impossible to determine the extent of the partnership's gains and losses from its apparently aggressive short selling activities on only three days. Moreover, Section 208 of the Ethics in Government Act concerns only whether one has a financial interest.

For these reasons, we look forward to your investigatory action to help determine the several issues of fact and law we have raised. Maintaining respect for the nation's ethics laws requires their observance by our highest elected officials. Based upon the best evidence at this date, it appears the issue of Ms. Rodham Clinton's compliance with Section 208 is in doubt.

Once again, thank you for your prompt attention.

Sincerely,

ROBERT LIVINGSTON,
Member of Congress.
GEORGE GEKAS,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 11, 1994.

Mr. WILLIAM SMITH
Smith Capital Management, Little Rock, AR.

DEAR MR. SMITH: On CNBC today, you stated you would have been pleased to provide all relevant information concerning ValuePartners I to ensure full disclosure of the facts and circumstances surrounding Hillary Rodham Clinton's partnership therein. We accept that as an offer of continuing support, and ask that you provide the following:

(a) The names and addresses of all owners of a beneficial interest in ValuePartners I during the period beginning on formation of the partnership and ending on the date hereof, together with the proportionate partnership interests held by such persons throughout the period.

(b) Details of each short sale by ValuePartners I during the period, including issuer, price, gain or loss, fees, and commissions and other costs associated therewith.

(c) Details of each other investment by ValuePartners I during the period.

(d) Copies of all reports provided to partners in ValuePartners I during the period, together with all documents and other evidence (including notes, phone logs, diaries, and phone bills) of telephone calls or other communications between you and either or both Hillary Rodham Clinton and William J. Clinton, or their agents, during the period.

(e) Copies of all financial statements of ValuePartners I (including unaudited statements for internal use, if any) prepared during the period.

(f) All correspondence and other documents between you and either or both Hillary Rodham Clinton and William J. Clinton, or their agents, during the period.

(g) Details of all short sales during the period for the beneficial interest of either or both Hillary Rodham Clinton and William J. Clinton caused, obtained, or arranged for by you, or of which you are aware, whether or not in connection with ValuePartners I.

(h) Details of all partnership distributions from ValuePartners I in which either or both Hillary Rodham Clinton and William J. Clinton had a beneficial interest during the period.

(i) Copies of all tax returns, and schedules and other documents in connection therewith, filed or prepared by ValuePartners I during the period, together with all tax informational records and notices provided to partners in ValuePartners I during the period.

Definitions. For purposes of this request, the following terms shall have the meanings set forth below:

(a) "You" means you, Smith Capital Management, its agents, officers, employees, predecessors, successors, and affiliates.

(b) "Period" means the period beginning on formation of ValuePartners I and ending on the date hereof.

(c) "Documents" means all papers, notes, books, records, files, invoices, correspondence, computer data, memoranda, diaries, telephone records, and physical information of any kind.

(d) "Beneficial interest" means direct or indirect ownership or financial interest, and includes specifically any interest in custodial accounts, investment accounts, individual retirement accounts, brokerage accounts, partnership interests, trusts, and any other form of savings, investment, or retirement account, as well as any direct or indirect interest in securities.

Please respond no later than March 25, 1994. Thank you for your cooperation.

Sincerely,

ROBERT LIVINGSTON,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.
GEORGE GEKAS,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 9, 1994.

STEPHEN D. POTTS,
Director, U.S. Office of Government Ethics, Washington, DC.

DEAR MR. POTTS: On January 26, 1994 Congressmen Livingston, Gekas, and Cox wrote to you seeking information as to the existence or status of any investigation into suggestions in the press that a federal employee, Hillary Rodham Clinton, had violated federal ethics laws and regulations. Your letter of February 10, 1994 responded that your office had not conducted and was not conducting an investigation because, thus far, "OGE is not aware of any information * * * that would call for such an investigation." We have, therefore, provided below specific facts and circumstances that according to the standards set forth in your response merit further Congressional inquiry as well as investigation by the Office of Government Ethics.

Your letter of February 10, 1994 states that if a person is an officer or employee of the executive branch of the United States government, that person's ethical conduct and responsibilities are governed by the criminal ethics laws of 18 U.S.C. secs. 201-209. You also say that the "Standards of Ethical Conduct" issued pursuant to the Ethics in Government Act, Executive Order 12674, as modified, and 5 U.S.C. secs. 7351 and 7353, set forth applicable regulations governing conflicting financial interests and misuse of position. You note the Standards of Ethical Conduct also include general principles of Executive Order 12674 which include, among others, the requirement that employees avoid any actions creating the appearance that they are violating ethics laws and regulations.

In 1986 Hillary Rodham Clinton first acquired an interest in a non-public limited partnership called ValuePartners I. Some time during 1992 her investment in this partnership increased.

William Rowland Smith is President of Smith Capital Management, Inc. ("Smith Capital") and is the general partner of ValuePartners I. A registered investment advisor, Smith Capital filed an amendment to its registration statement with the United States Securities and Exchange Commission, Form ADV, on March 16, 1993. The amended Form ADV stated that the management of the assets of ValuePartners I was entrusted to Smith Capital for a fee of three percent a year. The Form ADV also discloses that Smith Capital provides at least quarterly reports to investors concerning the makeup, appraisal and performance of the investment portfolio of ValuePartners I. Tax reports are also provided in January-February for planning and tax reporting purposes. Additional reports are provided on request.

The personal investments of President and Ms. Rodham Clinton were not placed into a blind trust until July 4, 1993. Consequently, prior to that date Ms. Rodham Clinton received regular reports from Smith Capital, including specifically a minimum of six reports in 1992 and the first half of 1993, detailing the short sale positions of ValuePartners I.[1] Ms. Rodham Clinton was, therefore, actually and constructively in receipt of information showing she had a direct and personal financial interest in short sales of pharmaceutical and health care stocks. Indeed, a list of these short sales prepared by Smith Capital was attached to the Executive Branch Public Financial Disclosure Reports, Forms 278, filed by candidate William J. Clinton on November 7, 1991, and May 19, 1992, and by President Clinton on May 14, 1993.[2]

The President's Task Force on National Health Care Reform ("Task Force") was created in early 1993 for the specific purpose of developing a legislative proposal on health care. Ms. Rodham Clinton was appointed by the President as the Chairperson of the Task Force. This was a "particular matter" concerning which Ms. Rodham Clinton had responsibility for operation, management and decision making. She was judicially determined to be a federal employee for that purpose. Association of American Physicians and Surgeons v. Clinton 997 F.2d 898 (D.C. Cir. 1994). She was patently participating "personally and substantially" in the decision making of the Task Force.

Ms. Rodham Clinton, in her federal employee capacity as Chairperson of the Task Force, gave numerous speeches attacking a discrete and identifiable class: pharmaceutical firms. Her attacks targeted these firms for regulation and price controls. These speeches had the effect of driving down prices in stocks in these specific companies. We submit herewith a detailed study produced at the University of Michigan concluding that the public pronouncements of the Clintons criticizing pharmaceutical firms depressed stock prices of those firms by as much as twenty-seven percent. S. Craig Pirrong, Political Rhetoric and Stock Price Volatility: A Case Study. This concentrated effort by the President and Ms. Rodham Clinton clearly had the "direct and predictable effect" of driving down the stock prices of pharmaceutical firms. United States v. Gorman, 807 F.2d 1299 (6th Cir. 1986).

At the time that Ms. Rodham Clinton's actions caused the drop in the prices of these stocks, her personal investment in ValuePartners I, of which she had repeated notice, was intentionally structured to profit from price declines in pharmaceutical company stocks. The list of assets filed with each of the three Clinton Forms 278 shows short sales in twelve different pharmaceutical and health care companies, including Merck & Co. Inc., Bristol-Myers Squibb, Inc. and Bioplasty, Inc.

The profit or loss from the individual short sales that Ms. Rodham Clinton's partnership made cannot be calculated from the inadequate and inconsistently reported information provided with the Forms 278 filed by the President after October 31, 1991. The net effect of the short selling by Ms. Rodham Clinton's partnership can, however, be determined from the filings. At the start of the Presidential campaign in October, 1991 the short sale portfolio of ValuePartners I included only one health care stock. A year later the short sale portfolio of Ms. Rodham Clinton's partnership included twelve pharmaceutical and health care companies. These short sales netted an overall profit of approximately $275,000.

On these facts, and given the law and regulations you have cited as applicable in this case, the Office of Government Ethics has a responsibility to investigate this matter. Ms. Rodham Clinton had responsibility for a "particular matter." She participated "personally and substantially." Her official actions had a "direct and predictable effect." She personally profited as a result. She had actual and constructive knowledge of her financial interest.

At a minimum, this conduct violates the very regulations to which your previous letter refers, inasmuch as it constitutes the appearance of impropriety and conflict of interest. We believe, however, that Ms. Rodham Clinton's actions not only create the appearance of impropriety but may in fact violate the prohibitions of 18 U.S.C. sec. 208.

If the Office of Government Ethics chooses not to immediately begin an investigation of this matter, and to take whatever other actions are necessary to enforce the federal ethics laws and regulations, we request that you outline the specific reason you believe that Section 208 is facially inapplicable. Please respond to this letter by the close of business on Wednesday, March 16, 1994.

Thank you for your consideration.

Sincerely,

ROBERT L. LIVINGSTON,
Member of Congress.
GEORGE W. GEKAS,
Member of Congress.
CHRISTOPHER COX.
Member of Congress.

FOOTNOTES

[1] In addition, according to Mr. Smith, during 1992 Ms. Rodham Clinton and he spoke by telephone. During 1993 Vincent Foster, Deputy White House Counsel, and Mr. Smith spoke by telephone, apparently concerning Ms. Rodham Clinton's investment since Mr. Foster was not a participant in ValuePartners I at the time. Other partners in ValuePartners I were personal friends and acquaintances of Ms. Rodham Clinton—including James B. McDougal. The non-public, closely held nature of ValuePartners I, a partnership including individuals who knew each other, provides additional evidence that in addition to actual and constructive knowledge of ValuePartners I investments, Ms. Rodham Clinton may have been in a position to influence these investments.

[2] We note that the filing by President Clinton is apparently not in compliance with governing federal regulations. The instructions to Schedule A of Form 278 require the listing of assets owned within thirty-one days of the filing of Form 278. On May 14, 1993 President Clinton filed Form 278 which included a "Smith Capital Management Portfolio Appraisal, ValuePartners I," dated "12-31-92." It would appear that, in order to comply with the thirty-one day requirement of form 278, the assets of ValuePartners I should not have been valued as of December, 1992. We would appreciate specific OGE advice concerning this requirement, and compliance or non-compliance therewith by the report in question.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 1994.

Hon. STEPHEN D. POTTS,
Director, Office of Government Ethics, Washington, DC.

DEAR MR. POTTS: We are writing to you concerning reports covering the investment activities of either or both President William Clinton and First Lady Hillary Rodham Clinton published in the Washington Times and in Money magazine. The Washington Times reports, entitled "Side Benefits of Rx Rhetoric" (November 18, 1993) and "Standards Shift for Hillary?" (November 22, 1993),

[2] Footnotes At End of Article

by nationally syndicated columnist Tony Snow, concerned the Clintons' investment in a partnership that sold pharmaceutical, health care, and insurance company stocks short. The articles raise the possibility that this short selling, combined with statements made by the President and First Lady, may have been in conflict with ethical regulations governing Administration officials. Copies of these articles are attached.

According to press accounts, either or both the President or Ms. Clinton have invested approximately one hundred thousand dollars in a partnership named "ValuePartners I." This partnership is managed by William Smith in Little Rock, Arkansas, a personal acquaintance of the Clintons. Press reports indicate that ValuePartners I dramatically increased its short selling of stocks in pharmaceutical, health care, and insurance company stocks at a time when Ms. Clinton and the President were making public statements critical of those industries, she in her capacity as head of the Administration's Health Care Task Force and he as President. An article in Money magazine entitled "How Blind is Your Trust?" (January, 1993) states that following the recommendations of Ms. Clinton's Health Care Task Force, prices of health care stocks dropped by as much as twenty and thirty percent. A copy of this article is also attached.

Press reports allege that Ms. Clinton was receiving regular reports from her adviser, Mr. Smith, at this time. Only after the increased short selling campaign of Valuepartners I had begun, and only in July, 1993, months after Money magazine called for the Clintons to place their investments in a blind trust, was such a trust created.

Both the President and Ms. Clinton would certainly be aware of the impact on the market of their statements about the Administration's health care proposals. The ability of the President and Ms. Clinton to affect prices in the securities markets is unique. The questions already raised publicly concerning their investments, particularly the short sales, must be addressed.

To assist the Congress in making a determination of whether an investigation is warranted, we request that the Office of Government Ethics provide an analysis of the threshold questions that these transactions raise under the Ethics in Government Act. While we would appreciate any additional factual or legal observations the Office of Government Ethics and its staff can share with us concerning these matters, at a minimum, your analysis should include answers to the following questions:

1. In so far as the maintenance of public confidence in government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interests, would the announcement of proposed Administration policy, at a time when the officials responsible for the announcements owned investments whose prices would reasonably be expected to be impacted by these statements, constitute a violation of the Ethics in Government Act by those officials?

2. Is the Office of Government Ethics conducting an investigation into possible violations of the Ethics in Government Act by the President, Ms. Clinton, or Mr. Smith in connection with their short selling or other investment activities?

We would appreciate at least a preliminary response to these questions by the close of business on February 9, 1994. If you need any additional information concerning this inquiry, please feel free to contact our offices. Thank you for your assistance in this matter.

Sincerely,

ROBERT L. LIVINGSTON,
Member of Congress.
GEORGE W. GEKAS,
Member of Congress.
CHRISTOPHER COX,
Member of Congress.

CONGRESSMAN KILDEE SALUTES MELVYN S. BRANNON AND ERNELLE TAYLOR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to Melvyn S. Brannon and Ernelle Taylor, both of whom were recently honored by the Urban League of Flint for 25 years of dedicated service. Mr. Brannon and Ms. Taylor were formally recognized by that very important organization on April 19, 1994 at a dinner in their honor.

Mr. Brannon has served with the Urban League of Flint since 1968, initially as deputy executive director and, from 1970 to the present, as president. His chief focus has been on educational initiatives that have demonstrated themselves to be of great value to the Flint community. These initiatives include: The Salute to Black Scholars programs, which honors at a community dinner graduating high school seniors who have maintained at least a 3.0 grade point average; Parent Enrichment programs, which aim to train parents of middle school students to better facilitate their childrens' educations at home; Incentives for Success, an enrichment program for at-risk students identified as potential dropouts; the Reading Olympics, designed to enhance reading skills of middle school students by encouraging the reading of African and African-American literature; and the 21st Century Network, a mentoring program that provides elementary school students with young, professional African-American role models who visit schools to discuss education and career options.

Ms. Taylor has served the Urban League of Flint since 1969, initially as an administrative assistant and, from 1984 to the present, as vice president for volunteers and special events. League members tell me that, without her tireless service, their organization would be hard-pressed to efficiently and sensitively conduct business. In addition to her work with the League, Ms. Taylor is involved with numerous other community organizations that include: The Flint chapter of the NAACP; the Junior League of Flint; the YWCA of Flint; Big Sisters of Flint; the Womens' Treatment Improvement Advisory Council, which oversees transitional homes for women recovering from substance abuse; the Advisory Council of the Whaley Out-Patient Clinic; the Board of Directors of the Cedar Street Childrens' Center; and the Leadership Summit Committee, a community-wide hospital oncology program.

Mr. Speaker, Melvyn Brannon and Ernelle Taylor have selflessly worked to make a brighter future for the entire Flint community. Their recognition dinner for their 25 years of service should not be seen as an end, but rather a beginning of their second 25 years with the Urgan League of Flint. I ask you and my fellow colleagues of this 103d Congress to join me in paying tribute to two exemplary public servants, Mr. Melvyn Brannon and Ms. Ernelle Taylor.

ON THE PASSING OF THOMAS S. DUNMIRE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. DE LUGO. Mr. Speaker, I plan to attend the funeral at Arlington National Cemetery later today of someone who symbolized the bipartisanship with which this House has generally approached questions concerning the insular areas.

Thomas S. Dunmire, a member of the staff of the Committee on Interior and Insular Affairs from 1973 until 1985, died last week in his retirement home of Hawaii.

Tom was the epitome of an objective, knowledgeable, and insightful staffer and assisted members of both parties with equal professionalism.

In fact, although he was the Republican consultant on insular issues, he was the committee's key adviser on them from 1977 to 1981. His expertise and judgment were relied upon greatly by my predecessor as chairman of the subcommittee with primary jurisdiction regarding insular matters, Phillip Burton.

Tom had been brought to the committee by his fellow Californian, Don Clausen, after more than 20 years in the Army. A West Point graduate, Tom rose to the rank of lieutenant colonel, served in Viet Nam, and earned the Bronze Star and Legion of Merit, among other commendations.

For many of his years here, Tom worked under the Insular Subcommittee's ranking Republican, Robert J. Lagomarsino. When Tom retired, Bob paid a tribute to him in which he said that Tom had "provided intelligent and sound counsel enabling Congress to formulate effective and successful policies" regarding the insular areas and "played a critical role in the promotion of political, social, and economic development" of these Caribbean and Pacific islands associated with the United States.

He also pointed out that Tom's hard work, sound advice, and friendly nature would be missed.

And Tom was missed to the extent that full committee chairman Mo Udall, ranking Republican DON YOUNG, and I formally called him back into congressional service for special assistance.

The assignments were in connection with the committee's consideration of the legislation that will enable the world's last remaining trust territory—the western Pacific islands of Palau—to become a sovereign State in free association with our Nation.

These assignments were not easy ones.

In one case, they involved Tom going to Palau to provide an essential and visible Federal presence at a time that individuals con-

nected with the incumbent administration of the islands were violently intimidating critics of that administration's policies—and the Reagan administration refused to do anything about it or even admit it even though our Government was fully responsible for the governing of the territory.

The assignments also involved Tom investigating matters that proved very embarrassing to the powers that were at the time and helping to identify the assistance that Palau needed to overcome the very serious problems that it then faced.

Mr. Speaker, Tom took these assignments on in spite of the cause for his departure from the staff.

And there is a message in the story which should be recognized.

Tom left because some policymakers did not want to face up to the flaws in the free association compact that had been negotiated with the Marshall Islands and Micronesia.

Others of us, however, listened to the concerns that Tom raised as one who was sincerely interested in the peoples of the islands and equally dedicated to good public policy for our Nation. So, we forced major improvements of the proposal into the compact legislation which was enacted in 1986.

I have been very gratified in the years since as the wisdom of Tom's concerns has been proven in instance after instance, as the problems that Tom foresaw in the originally negotiated compact developed.

The peoples of the islands involved and our Nation were, indeed, fortunate that Tom was willing to say what needed to be said although it was not politically convenient at the time. Because of what he did, measures were taken to address the problems that he identified.

Mr. Speaker, I want to close by expressing my condolences to Tom's widow, Gail, and to his five children: Nancy; Ann; Lisa; Tom, Jr.; and Kate.

EIGHTH ANNIVERSARY OF CHERNOBYL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. HOYER. Mr. Speaker, the Chernobyl nuclear disaster marks a tragic milestone in the history of the world. Today is the eighth anniversary of this nuclear explosion that continues to have such a devastating effect, especially in Ukraine and Belarus.

The explosion of the reactor at Chernobyl released approximately 50 times more radioactivity than was released by the atomic bombs at Hiroshima and Nagasaki. Thousands of people, many of them nuclear cleanup workers, have already died as a result of radiation exposure from Chernobyl.

With the passage of time there is a tendency to forget, and hence, become complacent about the ramifications of this disaster. However, although 8 years have passed, the scope of the destruction and its long-term effects cannot be understated. Inadequate decontamination efforts have failed to eliminate the radiation. The sarcophagus, or covering, over the obliterated fourth reactor has developed serious cracks. Unless serious measures are taken to repair it, experts fear that it will corrode before the end of the decade, releasing tons of radioactive dust into the atmosphere. In addition, there are continuing concerns about radionuclide pollution of the Dnipro River, Ukraine's main river and source of Kiev's drinking water.

The health consequences of Chernobyl remain devastating. There is incontrovertible evidence that the Chernobyl catastrophe has had deleterious effects on the health of hundreds of thousands of people, including illnesses of the thyroid gland, blood related diseases, and other illnesses. Thyroid cancer in children is 80 times higher than normal and rising.

Mr. Speaker, the biggest health impact, however, is yet to come. Because of the latency period for various radiation-related diseases, the peak effect on the health of the population is expected to come between 1996 and 2006. This provides us with an opportunity to provide assistance to help develop the sorely lacking medical infrastructures in Ukraine and Belarus when that peak effect strikes.

Another way in which we can help to overcome the devastating legacy of Chernobyl is to ensure that it never happens again. Unfortunately, economically devastated Ukraine is still utilizing the notoriously unsafe RBMK-Chernobyl type reactors. The international community must help Ukraine and Russia improve the safety of their nuclear reactors. One alternative might include speeding the construction of safer reactors. I can think of few areas in which the international community's assistance efforts would be ore worthwhile and in keeping with our environmental, national security, and humanitarian interests.

BIRTHDAY WISHES TO GEORGE HARRISON WHITNEY

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KIM. Mr. Speaker, I rise today to wish my constituent, Mr. George Harrison Whitney, who resides in Upland, CA, in the 41st Congressional District, belated birthday wishes. Mr. Whitney celebrated his 80th birthday on March 3, 1994, and it is my honor to send him belated birthday greetings on being 80 years young and wish him many happy returns.

TRIBUTE TO TAFT HIGH SCHOOL, WOODLAND HILLS, CA

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. BEILENSON. Mr. Speaker, on behalf of myself and my constituents in California's 24th Congressional District, I am honored to call my colleagues' attention to the achievement of Taft High School of Woodland Hills, CA. This month, for the second time in 5 years, Taft won the national championship of the U.S. Academic Decathlon, the "Super Bowl" of secondary-school academics. The nine-member team recorded the highest score in the 13-year history of the event, as well as the highest individual score, and won the more than half of the $30,000 in scholarships awarded to individual students.

The team members, who claimed five of nine awards for individual high scores, included: top student, Daniel Bedichevsky, 17; Chris Huie, 17; Michael Michrowski, 17; Sheldon Peregrino, 18; Rebecca Rissman, 17; Andrew Salter, 17; Kimberly Shapiro, 16; Stephen Shaw, 16; and Sage Vaughn, 17;

These nine high school students and their academic coach, Arthur Berchin, began preparing for the decathlon last summer. After competing with classmates for a place on the Taft team, the students took practice tests every day after school and studied over weekends and holidays, even after the January 17th earthquake damaged their homes and school.

In March Taft defeated 42 California public and private schools to place first in the State, and the team went on to the national match, competing against 41 States and the District of Columbia in 10 events, including math, fine arts, economics, science, and literature. The competition also included a gameshow style super quiz that tested students' knowledge of 19 important documents, such as the Camp David accords.

I congratulate the team members, their coach, Arthur Berchin, and the Taft faculty and student body for this very special achievement. Their high level of excellence—especially in the face of both today's tight school budgets and the often unfair criticism of our schools and students—shows what can be accomplished through dedication and hard work. Taft continues to be a credit to our city and a role model for other schools to follow.

I am enormously proud to be able to bring Taft's outstanding achievement to the attention of the Members of the U.S. Congress.

KLEIN HIGH SCHOOL CHORALE WINS NATIONAL COMPETITION

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. FIELDS of Texas. Mr. Speaker, it is with great pride that I wish to bring to the attention of the House the fact that the Klein High School chorale recently took first place honors at the National High School Choral Festival held in Washington, DC, April 16–20. I am pleased that Klein High School is located in my congressional district, and that I represent most of the school's students in this body.

This honor is testament to the hard work and dedication of the 82 young men and women who comprise the Klein High School chorale, as well as the hard work and dedication of choral director Phillip Raddin and his assistant choral director, Jan Juneau.

In all, 240 choirs that had received regional recognition submitted audition tapes to the festival committee. From this group, 28 choirs

were invited to attend, and perform at, the festival. The top eight choirs were invited to perform at the John F. Kennedy Center for the Performing Arts on the evening of April 19. It was from this group that the Klein High School chorale received the first-place award.

During their trip to the Nation's capital, the members of the Klein High School chorale also were asked to perform at the National Cathedral, Needless to say, Mr. Speaker, the members of the Klein High School chorale had an enjoyable and exciting time in Washington.

I hope you, and all of my colleagues, will join with me in congratulating the members of the Klein High School chorale, their parents, and the faculty and staff of Klein High School—especially Phillip Raddin and Jan Juneau— on winning the National High School Choral Festival, and wishing them continued success and happiness in the future.

Thank you, Mr. Speaker.

CONGRESSIONAL SUPPORT OF THE HMONG PEOPLE IN THAILAND

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. CUNNINGHAM. Mr. Speaker, I would like to include in the CONGRESSIONAL RECORD an important letter to the Government of Thailand about the Hmong people of Laos, their leader Gen. Vang Pao and Lao Gen. Thonglid Chokbenbun. Congressman BEN GILMAN, DUNCAN HUNTER, and myself have received deeply disturbing information concerning the plight of the Hmong people in Thailand.

As a Vietnam veteran, I recognize the important role of Gen. Vang Pao and the Hmong people, and I am grateful for the sacrifices that they made for the United States and Thailand during the war years.

Gen. Vang Pao continues to be the beacon of light for the Hmong people, for freedom, democracy, and human rights in Laos. I trust that this letter will continue to remind us of the situation that the Hmong face as well as bring a level of cooperation from the people of Thailand.

March 31, 1994.

His Majesty King BHUMIBOL ADULYADEJ,
The Grand Palace, Na Phra Lan Road, Bangkok 10200, Thailand.

YOUR MAJESTY: As Members of the U.S. Congress and friends of Thailand, we ask for your support and assistance on a matter of significant importance to us. We are very concerned with recent reports in the Bangkok press about some senior leaders in the Thai military taking action—and asking the United States government to take action—against General Vang Pao and his Hmong people as well as General Thonglid Chokbenbun.

As you know, in the secret Laotian theatre of the Vietnam war, the Hmong people suffered very large casualties and paid a very terrible price for their support of crucial Thai and United States' covert military operations. During the course of that war Thai and American military advisors died with the Hmong—under the leadership of General Vang Pao—who fought to block the North Vietnamese army from advances into Laos and Thailand. To this day, the Hmong people continue to suffer greatly for their loyalty to Thailand and the United States during the war and its aftermath.

We have been, therefore, shocked to learn that some Thai military officials were acting against—and seeking the U.S. State Department's help to act against—America's longtime allies from Laos who continue to seek to bring democracy, freedom and human rights to their people.

Your Majesty, we respectfully ask you and the Queen to intervene personally and discuss this matter with these Thai military officials—as well as other senior Royal Thai political and military leaders—so that they are aware of the importance many in the United States Congress still place on our long-time Hmong and Lao allies. So that it does not become the policy of the Royal Government of Thailand at any time, we request you to communicate to these Thai officials and to the people of Thailand our strong opposition to the recent action by some in the Thai military against General Vang Pao, General Thonglid Chokbenbun and other freedom-loving Hmong and Lao people.

Thank you for your assistance with this matter; we await your response.

Sincerely,

BEN GILMAN.
DUNCAN HUNTER.
RANDY CUNNINGHAM.

TRIBUTE TO LARRY AUSTIN, RECIPIENT OF THE HARRY CHAPIN HUMANITARIAN AWARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to Larry Austin, who will be honored on May 13 with the 1994 Harry Chapin Humanitarian Award for Community Service. This prestigious award is presented once a year by the Long Island Association to an individual whose activities continue the tradition of community service exemplified by the late singer, songwriter and humanitarian, Harry Chapin.

Larry Austin is chairman and president of Austin Travel, a company he founded in 1955. Today his business has grown to 22 offices and 175 employees across the United States. Like Harry Chapin did, Larry Austin believes it is his responsibility to give something back to his community. That's why he has been involved for decades in numerous Long Island causes.

For over 20 years, Larry Austin has been a leader in the Long Island Association, the premier business organization in Nassau and Suffolk Counties, NY. As chairman of the LIA's Transportation Committee, Larry has been a vocal advocate for improving Long Island's transportation system, including the completion of the service roads and a fourth lane for the Long Island expressway. He also has fought for improved Long Island Railroad freight operations, and for renovations at Long Island's local airports.

Among Larry's other business and civic activities, he is chairman of the Marketing Committee of the C.W. Post School of Business, and he serves on the Long Island Better Business Bureau.

Larry Austin has also been a leader in cultural affairs. He worked closely with Harry Chapin on many occasions to promote Long Island's cultural institutions. As president and board member of the Long Island Philharmonic, Larry saved this orchestra when it was threatened with bankruptcy. He also serves on the board of WLIW-Channel 21, Long Island's public television station.

Larry and his wife Eileen have three sons and six grandchildren.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me now in paying tribute to Larry Austin, and to congratulate him on being awarded the Harry Chapin Humanitarian Award for Community Service.

TRIBUTE TO ROBERT "BOB" BERKLEY BALLOU

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. DIXON. Mr. Speaker, I rise today to pay a special tribute to attorney Robert "Bob" Berkley Ballou, who on December 31, 1993, began a richly deserved retirement from the active practice of law in Los Angeles. Bob's career as an attorney spanned almost four decades, during which he earned a reputation as an astute counselor, a trustworthy friend, and a devoted family man. In recognition of his distinguished career in law, on Saturday, April 30, 1994, just one day after celebrating his 65th birthday, family, friends, and colleagues of Bob's will gather to honor him at a surprise retirement brunch at the Proud Bird Restaurant in Los Angeles.

Born in Pittsburgh, PA on April 29, 1929, to Mr. Henry Morris Ballou and Ms. Dorothy Walker Lee, Bob spent his early youth in Pittsburgh before relocating with his family to Los Angeles. He attended Forshay Junior High School, Manual Arts High School, and Los Angeles State College before receiving his law degree from Southwestern Law School.

In 1956, Bob joined the law offices of attorney Calvin Porter. In 1959, he became a solo practitioner with the opening of an office on what was then Santa Barbara Boulevard. He remained in practice for 2 years before teaming with attorney Bill Woods to open an office on Western Avenue. Attorneys Woods and Ballou practiced together for 14 years. In 1975 Bob decided to go solo once again and opened another office where he remained until his retirement in December 1993.

Throughout his distinguished career, Bob maintained a visible and influential presence in the Los Angeles community. He has been an enthusiastic supporter of many community service organizations, including the Young Men's Christian Association (YMCA), the Robert Brooks Ballou Foundation, and various mentor programs. His dedication and commitment to excellence have served to inspire many aspiring young men and women.

Bob Ballou has earned the admiration and respect of many individuals. To those he has touched, he is known as a friendly, loving, and caring person. It has often been said that "[Bob] has met no strangers, [and] everyone is

his friend." As an individual who has had the privilege of knowing him for many years, these words aptly describe an individual who has reached out to numerous individuals and endeavored to assist anyone who needed help. Indeed, his keen perceptions of the needs of his fellow human beings and his high ethical standards, have been the guiding principles of his life and the hallmarks of his career as an attorney at law.

Bob has had two loves in his life—his family and his golf. He has never allowed anything or any person to stand in the way of his absolute love and support for his wife Patti, and their children, Nikki, Candice, and Brian.

Now that he has retired, Bob and Patti have moved to northern California, where Bob's other love—golf—is just a "stone's throw" away from the couple's home. Bob and Patti's residence overlooks the golf course and they are enjoying the company of close personal friends.

Mr. Speaker, I am pleased to commend Robert "Bob" Berkley Ballou on his outstanding contributions to the practice of law, and to the citizens of Los Angeles. I ask my colleagues to join me in extending to him and Patti our very best wishes for a wonderful and well-deserved retirement, full of prosperity and good health. Bob, may you consistently shoot under par and have your share of holes in one.

PARTNERSHIP FOR ENVIRONMENTAL EDUCATION

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. SAXTON. Mr. Speaker, 3 years ago it was my pleasure to bring to the attention of the House of Representatives a program, financed by a company in the private sector, aimed at helping educate the environmental leaders of tomorrow and provide resources vital to the support of environmental science. It was unveiled on May 1, 1991 by EPA Administrator William Reilly and Deputy Secretary of the Interior Frank Bracken. On May 6, 1994, the 3-year anniversary of the program is being celebrated, and I want to take this opportunity to provide my colleagues with a status report.

The program is the Partnership for Environmental Education, and it is part of the Times Mirror Magazines Conservation Council. Times Mirror Magazines is the Nation's largest publisher of leisure-time publications. Those of us who fish, hunt, golf, ski, boat, work on our homes or cars, follow sports, or want to know about the latest scientific developments have read the pages of Times Mirror Magazines: Field and Stream, Outdoor Life, Golf Magazine, Ski Magazine, Skiing, Yachting, Popular Science, the Sporting News, Salt Water Sportsman, and Home Mechanix.

The Conservation Council pools the communicative strengths of the magazines to address conservation issues, creating a more aware and involved public. The Partnership for Environmental Education extends that concept into the advertising pages of all the magazines, and supports important environmental education programs across the country.

To encourage its advertisers to join the Council in increasing public awareness and involvement in the solution of environmental problems, the Partnership for Environmental Education takes 2.5 percent of the revenue from advertising that contains environmental messages and donates those funds—in the advertiser's name—to environmental education programs chosen by the editors of the magazines.

In the past 3 years the program has been an incredible success. To date over $250,000 has been distributed to environmental education programs, and over 140 advertisers have been involved, with an excess of $10 million in advertising. Almost 1,000 pages of advertising have included environmental messages, thereby increasing environmental awareness. And equally important, about 50 education programs across the country have been supported. These programs span the range of the possible. Examples include: A salmon frye rearing station for students in Nome, AK, high school; scholarships for Princeton University students in environmental science; an aquaculture education program for Maryland teachers; woodland and wetland restoration projects in Bronx, NY; the Lee Wulff scholarship program for graduate students in fisheries science with Trout Unlimited; support for the National Environmental Education and Training Foundation; angler education projects on the Chesapeake Bay, in Virginia and Florida; an environmental education sign program on ski slopes across the country; providing students with equipment to explore and analyze the Los Angeles River corridor; various videos, newsletters, teacher training, posters, coloring books, and other environmental education materials used across the country.

Whenever possible, the partnership's funds are used in public-private partnerships such as through the National Fish and Wildlife Foundation and the National Environmental Education and Training Foundation.

But the success of this program is mostly a function of the willingness of advertisers to participate in this program. The list of these companies helping solve environmental problems through education are: Abu Garcia, Ace Hardware, AFTCO, Agri-diagnostics, Albermarle Boats, Alpine Meadows, American Recreation Products, Ande Monofilament, Aquasport, Aspen Skiing Company, Baltic Yachts, Bayliner, BCS America, Bighorn Resort, Big Sky Montana, Bio Lab Inc., Boston Whaler, Browning Arms, Carolina Classic, Cat Harbor Boats, Cayman Islands, Chevrolet, Christensen Yachts, Corpus Christi Art Connection, Defender, Derecktor, Echotec, Edison Electric Institute, Eljer, Federal Cartridge Company, First Brands/Prestone Anti-freeze, Fischer, Fishing International, Fiskars, Fountain Powerboats, Four Season Sun Rooms, Furuno, Goodyear, Gore Mountain, Gore-Tex, Grady-White, Grandoe, Harrison-Hoge/Sea Eagle, Hi-Tec, Hinckley, Homelite, Honda Outboards, ICOM Electronics, Interlux, International Paint, Invader Marine, Jackson Hole, Johnson Camping/Eureka Tent!, Johnson Controls, Johnson Fishing/Minn Kota, Jotul Stoves, Kastle Skis, Kelly Springfield, Kemp ComposTumbler, Klean Strip, Kmart, Lake Placid, Look Bindings, Lowrance, Mako Marine, Marine Power, Maxima, Maxon, Mammoth, Micrologic, Miller Brewing Company, Mobil, Mutual of Omaha, Nelson Weather/Rite, Nikon Riflescopes, Nordic Sports Optics, Nordica USA, Nordica Skiwear, North Sails, Olin Skis, Pacific Publishing/Outdoor Retailer, Penn Fishing Tackle, Performer Yachts, Plano Molding, Poulan, Precision Boating, Pro Line Boats, Pursuit, Quest, Raichle Molitor, Rainhandler, Ray-Ban, Rayovac, Raytheon, Raytheon/Autohelm, Raytheon/Apelco, Reebok, Ryobi, Seirus Gloves/Accessories, Simmons, Sierra Ski Marketing Council, Ski Barn, Ski Windham, Snapper, Snowmass, South Carolina Governor's Cup, Sportif, Standard Communications, Steamboat Ski Resort, Stratos Boats, Stren Fishing Lines, Sugarbush, Suzuki Marine, Suzuki, Tasco, Trimble Navigation, Trak Skis, Toyota, Troy-Bilt, Turtle Fur, Ultress Catamarans, United Ski Industries Association, U.S. Paint, U.S. Steel, Vail/Beaver Creek, Valvoline, Velux, Volvo Penta, W.W. Grainer, Wal-Mart, Walker Engineering, Walt Disney World, Wellcraft Marine, Wigwam Mills, WD–40, Wolverine, and Yamaha Outboards.

The list of participating advertisers and supported organizations affects all 50 States and almost every congressional district in the country. After 3 short years, the partnership has made significant progress in increasing the environmental awareness of the American public, and helping create the environmental leaders of tomorrow.

I believe we all recognize that the solutions to environmental problems and the successful integration of economic growth with environmental protection is dependent on public-private partnerships. The public sector cannot do it all and it requires the creativity, entrepreneurism, resources, and initiative of the private sector to bring about comprehensive environmental education and the changing of the many behaviors which have harmed our envrionment and natural resources. I applaud Times Mirror Magazines and its advertisers for this successful initiative.

LIFT THE ARMS EMBARGO ON BOSNIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. SOLOMON. Mr. Speaker, I would like to bring an article written by Jeane Kirkpatrick and Morton Abramowitz entitled "Lift the Embargo," to the attention of my colleagues.

The human rights violations against the innocent people of Bosnia are egregious. We cannot sit back while the Serbian regime and its allies continue to decimate civilian populations with their policy of ethnic cleansing. This article corroborates the position that we ought to be helping the Bosnians by lifting the arms embargo so they can at least have a chance to fight for their lives.

Mr. Speaker, I urge my colleagues to read this informative article.

LIFT THE EMBARGO

(By Jeane J. Kirkpatrick and Morton I. Abramowitz)

WASHINGTON, DC.—Just last month, the United States presided at the creation of a new Bosnian Federation. Today, we are presiding at its destruction. Our lack of resolve and loss of credibility make us accomplices to a Serbian conquest, not architects of a better settlement. The peace process begun with hope in Washington is about to go to hell in Gorazde.

In the face of fresh Serbian outrages against civilians and United Nations peacekeepers, President Clinton has steered a neutral course among the "warring parties." The results are morally, politically and militarily indefensible, with disastrous consequences not just for Bosnia but for a stable, democratic Europe and the viability of NATO and the U.N. (Yesterday there were indications that he was reconsidering this course.)

When confronted with the complexities of the war in Bosnia and brazen Serbian violence, the U.S. has simply retreated. It pursues negotiations at any price rather than creating the conditions for a workable peace agreement. Incredibly, we maintain the crippling arms embargo against Bosnia even as we talk of easing the trade embargo against Yugoslavia. Everybody but the Serbs has fallen hostage to the U.S. peace process, because we didn't back it with enough force to convince the Serbs that more war gives them more pain than gain.

For two years, Bosnia has appealed for means to defend itself. But instead, we gave it unenforced U.N. resolutions, unchecked genocide, impotent mediators, lectures on realpolitik, unsafe "safe havens," peacekeepers who can barely protect themselves, and now an unconsummated marriage of force and diplomacy.

Let us drop the pretense that we can do better, or at least that we will. If we are unwilling to give the Bosnian Serbs (and Belgrade) an ultimatum to withdraw from their sieges or endure punishing air bombardment, then NATO and the U.N. should get out of the way and give the Bosnians the arms to fight for their own country and their own lives.

Mr. Clinton, who has halfheartedly supported lifting the arms embargo, recently said it was not clear under international law whether it could be ended unilaterally. It can be. The embargo is inherently illegal and invalid with respect to Bosnia.

The embargo was originally imposed on all of the former Yugoslavia in 1991. But Bosnia is now a U.N. member in its own right, fully entitled to defend itself against aggression under Article 51 of the U.N. Charter.

Neither Bosnia nor anyone else is bound by an embargo that contravenes this fundamental precept of international law. Belgrade certainly has no compunctions about arming the Bosnian Serbs in violation of the embargo. The right to self-defense cannot be superseded by any U.N. resolution unless the Security Council itself undertakes to insure international peace and order, a task it has utterly failed to fulfill in Bosnia.

The embargo is not just illegal. It has protected the Serbs' advantage in heavy weapons. It has enabled the Serbs to conquer 70 percent of sovereign Bosnian territory and drive two million people from their homes. And it flies in the face of U.N. resolutions authorizing "all necessary means" to insure delivery of humanitarian relief and protect safe havens.

If the embargo cannot be removed by the Security Council because of Russia's veto, it must be removed by individual nations, beginning with the United States. Our European allies may balk, but in the end they need to worry more about our deserting them than we need to worry about their deserting us. Also misplaced are fears that unilaterally lifting the arms embargo for Bosnia would lead nations to abrogate the embargo against Serbia or Iraq. The cases are not analogous. Belgrade and Baghdad are proven aggressors. Their self-defense is not an issue.

A U.S. move to lift the embargo and encourage other countries to do the same would be welcomed by an overwhelming majority in the U.N. Indeed, a majority has gone on record against its validity. And now that Russia's diplomacy has failed with the Serbs, it would save Moscow the added embarrassment of a veto.

Granted, a phased withdrawal of U.N. forces under U.S. air cover and a steady arming of the Bosnians could make matters worse before they get better. But that is a price the Bosnians are willing to pay, and we should be no less willing. It would initially lead to more killing, but the killing has been going on for two years and almost all the dead are innocent Muslims. It would put U.N. forces and humanitarian workers in jeopardy. But they are already in the Serbian cross hairs. Their alternative is to keep standing by, tabulating the carnage and treating the casualties, while CNN records it all in living color.

Humanitarian aid from the West would still be necessary, but the new Bosnian-Croatian Federation would bear the brunt of insuring the delivery of relief. The armed Bosnian forces might suffer some early reversals, but the federation will make it easier for us to deliver needed weapons.

Bosnia should be given the chance to work out a better solution than acquiescing to its own destruction. The Bosnian Army has will, discipline and manpower. If we lift the arms embargo now, we give the Bosnians a chance to do more than go down fighting. We give them a lease on life and a basis on which to build a viable peace—a peace that they, not we, will have the means and the duty to keep.

ANNUAL WORKERS MEMORIAL DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. GOODLING. Mr. Speaker, I am pleased to take this opportunity to commend the York-Adams County Central Labor Council as it holds its fourth annual workers Memorial Day. The purpose of the event is to recognize those who have lost their lives or have been injured in the work place.

Although we have made considerable progress in reducing deaths and serious injuries on the job, more remains to be done. Each year about 6,000 workplace fatalities occur. Each is a loss to our country as well as to the families and friends of those who die.

The best tribute we can make to these individuals is to ensure that today's workers are provided the safest workplace possible. The Occupational Safety and Health Act has gone a long way in improving the safety of the workplace. No one would argue that OSHA must be reformed in order to be most effective, although in Congress we are currently debating different means to achieve this goal.

I believe we need to explore new ways of involving government, employers, and employees in job safety. Job safety is in everyone's interest. We need to work at new and more effective ways to work together to help American workers both compete in the world marketplace and work in safe conditions.

Job safety is like producing a quality product in that it requires constant attention and improvement. Workers Memorial Day is a good time to remember those who died or were injured, and to remind ourselves and our Nation of the importance of job safety so that we commit ourselves to move forward on this important issue.

CUMBERLAND MUTUAL FIRE INSURANCE CO. HONORED FOR 150 YEARS OF EXEMPLARY SERVICE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. HUGHES. Mr. Speaker, I rise today to congratulate the Cumberland Mutual Fire Insurance Co. for 150 years of exemplary service to the State of New Jersey in the insurance writing industry.

The Cumberland Mutual Fire Insurance Co. [CMFIC] is an insurance company located in Bridgeton, NJ, with a great history of commendable performance. From the adoption of its constitution, presented by the Shiloh-Bridgeton Committee on January 30, 1844 and the inception of the company later that spring, CMFIC has been blessed by the leadership of persons of great intellect, integrity, and foresight. Indeed, this level of excellence is the principal reason that Cumberland Mutual has been so successful for so long.

Over the years, Cumberland Mutual has made security and safety of paramount importance. Recognizing the threat of natural disasters and the curse of fires, CMFIC sought catastrophe reinsurance to guarantee the policyholders payment of claims no matter what the circumstances. They then sought to provide better service and reasonable rates to the company members while encouraging prudent steps to prevent losses. Potential safety risks are examined yearly and recommendations are made for removing fire hazards.

Cumberland Mutual is justly applauded by all who are familiar with its operational code of conduct and its willingness to maintain a level of intimacy between the directors, officers, and members or prospective members of the company. Cumberland's practice of allowing applicants and claimants the privilege of appearing in person to plead their case, has accentuated its fundamental philosophy of fair play and a desire to view a problem from all sides. It is clear that CMFIC is constantly striving for a better, more modern, and equitable method of compensation and, that in part, explains why Cumberland is so well known and respected throughout south Jersey.

As the Cumberland Mutual Fire Insurance Co. celebrates a century and a half of outstanding service, I would like to take this op-

portunity to congratulate all of those who have contributed to this tremendous record of accomplishment for the last 150 years and wish them continued success in the years ahead.

LABOR DEPARTMENT PUTS HARSH BURDEN ON TEEN DRIVERS

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. KREIDLER. Mr. Speaker, along with Congresswomen JOLENE UNSOELD and MARIA CANTWELL, and Congressmen NORM DICKS and AL SWIFT, I am today introducing legislation to update an outdated provision in the Fair Labor Standards Act of 1938 that is hurting the job market for teenagers.

If it seems strange to you that a 1938 law applies to society in 1994, consider these three incidents:

A 17-year-old after school employee at an auto dealership drives a new car from the dealership to a nearby gas station, fuels the car, and returns to the dealership.

A 17-year-old part-time lot attendant at an auto dealership drives a new car 20 feet from a wash rack to the detail shop, backing, briefly, onto public street.

A 17-year-old student, working to earn money for college, drives a car from one portion of the dealership to another, crossing, briefly, a public street.

These incidents occurred in my State, and each are considered illegal under the Fair Labor Standards Act of 1938. In my State, 59 auto dealers were fined $197,000 for alleged violations by the Department of Labor; virtually all are appealing.

If you look at the law, at 29 CFR 570.52(b)(1) then at the regulation supporting this law, you find an undefined regulation permitting "incidental and occasional" driving so long as the driving is restricted to an automobile or truck which does not exceed 6,000 pounds gross vehicle weight; that the driving is restricted to daylight hours; that the driver holds a State license valid for this type of driving and has completed a State-approved driver education course; that the vehicle is equipped with a seat belt; and that the driving does not involve the towing of vehicles.

Any fair evaluation of the condition at most auto dealerships in Washington State today will show that these conditions are carefully followed. Typically, lot attendants are responsible for moving cars around the lot, and washing and preparing cars for customers. And on occasion, these 17-year-old employees also fuel vehicles at nearby gas stations.

Auto dealers have told me that these conditions are common to their operation. They've told me that no one from the Department of Labor has ever communicated to them an interpretation of "incidental and occasional" driving that is at odds with this practice. In fact, I believe the vast majority of auto dealers in my State have sincerely attempted to comply with the law and the regulation as they are written. They have reviewed the law and the regulation, and have consulted their national and State trade association on compliance matters.

But Mr. Speaker, there is nowhere they can turn to find a definition of "incidental and occasional driving." That's because the phrase remains undefined in law or in regulation.

That, however, does not seem to deter the Department of Labor which, with unexplained zeal, has pursued cases against auto dealers. To me, this is all the more amazing in light of a letter from Maria Echaveste, Administrator of the Employment Standards Administration's Wage and Hour Division, who on March 15, 1994 wrote:

Although HO2 (Hazardous Occupation Order No. 2) does contain an exception that would allow minors under certain conditions to perform some occasional and incidental driving, recent investigations have disclosed that what constitutes "occasional and incidental" driving may not be clearly understood by auto dealers.

In the end, these investigations result in needless anxiety, expense and litigation, but the real victims are the teenagers. They all have valid driver's licenses. Their driving records are screened and they're subject to drug testing. They are covered by employer-based insurance. They must pass a driver's education class. And now the word is out it's safer to fire teenager lot attendants than to risk violating a law even the Department of Labor can't define.

One of my constituents is one of these victims. "I am 17-years-old," he told me, "and I lost my job because of the law about driving cars. Not only did I lose my job, but I also lost college money I was saving, car insurance, and extra spending money that job provided me. I hope you would fight this law so I may get my job back, and if it doesn't get cleared by the time I turn 18, maybe it will help out another kid."

Our bill, Mr. Speaker, will allow a teenager to drive up to 50 percent of the time as long as driving was not the primary duty. This is a simple solution which should be rapidly adopted.

The Seattle Times, on April 14, 1994, added its voice to this campaign with a lead editorial, which I would like to submit for the RECORD.

LABOR DEPARTMENT PUTS HARSH BURDEN ON TEENS

The job market is tough enough for teenagers without the U.S. Department of Labor shrinking it through inflexible interpretation and enforcement of child-labor laws.

The Department of Labor has punished—not protected—minors by fining 65 auto dealers from Tacoma to Bellingham $197,000 for allowing 16- and 17-year-olds to do minimal driving in their work. For some, it meant moving cars across the street from one lot to another. Most of the dealers are appealing.

These are teenagers with driver's licenses good anywhere in the United States—but on the job. The upshot of the crackdown is the probable loss of about 500 jobs that usually go to minors with licenses.

Laws against minors driving on the job go back to 1938 passage of the Fair Labor Standards Act. It was intended to prevent children from working long hours in dangerous occupations. But in 1968, an exemption was added that allowed minors to drive in situations deemed "occasional and incidental."

The Department of Labor interprets that to mean minors can drive only in emergencies. Regional officials say if driving a car across a street from one lot to another is part of the job, it's not "occasional and incidental."

Rep. Mike Kreidler, D-Lacey, is drafting a bill that calls for the Department of Labor to review old laws in an effort to determine whether they still make sense. It would apply to other industries as well as auto dealers.

Government is searching for ways to find more opportunities for unemployed teenagers. Unbending interpretation of regulations runs counter to that. Young people who want to work don't need additional doors slammed in their faces.

SALUTE TO "RED" CANTRELL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to a man whom I am proud to serve in the U.S. House of Representatives, Mr. Sefton Lamont "Red" Cantrell of Benton, IL.

Red Cantrell is the kind of man that makes our communities good places to live and raise our families. His unending devotion to public service and politics has helped people of all walks of life in Franklin County.

Red Cantrell was born March 2, 1914, to Bill and Jane Cantrell. His career in public service began in 1935, when he was elected precinct committeeman of Browning Township in Buckner, IL. He served in that capacity until moving to Benton and being elected in 1961 as precinct committeeman of Benton 1 Township. He held that position until this March when he finally decided to retire.

We all know, at every level of elected office, that the people who make the sacrifices, put in the hours, knock on the doors and organize the events are the men and women who serve at the precinct level. And Red set the standard for folks in our area, who knew they could count on his dedication and devotion to the cause to get the job done.

During his career, Red served as a deputy under Sheriff Paul Collins, worked for the United Mine Workers of America, was appointed by Governor Kerner as an oil and gas inspector for the Illinois Department of Revenue and was appointed by Governor Walker to serve the Illinois Department of Agriculture. For about the last 10 years, Red has worked long and hard as a trustee with the Benton Township.

Now, after 59 years of leadership in Democrat politics and dependable work in public service, Red Cantrell is going to take life a little easier and let someone else carry the banner for the causes in which he believes. But those of us who have the good fortune to know Red can rest easy in the knowledge that he'll always be there to give good advice and pitch in to help whenever he's needed.

Red is one of the good guys—I thank him for his friendship and for all he has done to serve the people of our area.

TRIBUTE TO THE CLASS FROM CORONA DEL SOL HIGH SCHOOL, TEMPE, AZ

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. COPPERSMITH. Mr. Speaker, On April 30-May 2, 1994, more than 1,200 students from 47 States and the District of Columbia will be in our Nation's Capital to compete in the national finals of the We the People . . . The Citizen and the Constitution program. I am proud to announce that the class from Corona Del Sol High School from Tempe, AZ will represent Arizona's First Congressional District. These young scholars have worked diligently to reach the national finals by winning local competitions in their home State.

The distinguished members of the term representing Arizona are:

Camila Alarcon, Sean Aldous, Suping Ang, Alia Beard, Caroline Bentley, Brad Bowen, Carrie Brackett, Bonnie Brooke, Stacey Burdick, Marty Davis, Chris Dible, Shannon Dietz, Marney Dillon, Shaudi Divsalar, Mike Garcia, Erin Hansen, Stephanie Hartin, Craig Hayden, Brian Hofer, Becky Kimball, Jennifer Landis, Coby Larsen, Marie Letellier, Phil McKeown, Zac Mortensen, Andy Price, Jeff Rensel, Nathan Sandvig, Jonathan Scheid, Karalee Scholes, Jared Speicher, Michelle Stalter, Nghi Vuong, Erik Youngblood.

The We the People . . . The Citizen and the Constitution program, supported and funded by Congress, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3-day national competition simulates a congressional hearing in which student's oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

Administered by the Center for Civic Education, the program, now in its seventh year, has reached more than 20,100,000 elementary, middle, and high schools nationwide. Members of Congress enhance the program by discussing current constitutional issues with both students and teachers. This year, the Thomas Jefferson Commemoration Commission will join the Center in making special presentations to the students in honor of Jefferson's legacy.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective of the significance of the U.S. Constitution and its place in our history and our lives. I wish them the best of luck in the national finals and look forward to their continued success in the years ahead.

SMITH COUNTY CHAMBER: 20 YEARS OF PROGRESS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1994

Mr. GORDON. Mr. Speaker, strong businesses are the backbone of any community. That's especially true in small, rural communities.

And in towns and cities where we find economic development, strong schools and athletics, and a good quality of life, we usually find that businesses have banded together to lead the way.

Smith County, TN, is a perfect example. And this week, the Smith County Area Chamber of Commerce is celebrating 20 successful years of working to make the county a better place for all its citizens.

In 1974, the Smith County Board of Commissioners and the Carthage, TN, Booster Club recognized that if the county was to be able to provide a place where future generations could live and work and raise a family then it had to build on its strong agriculture roots with a more diversified economy. The Smith County Chamber was born from that vision.

The chamber brought together business and civic leaders who understood the value of investing in their communities. By pooling those resources with help from local, State, and Federal officials, the chamber and the county were better able to take advantage of the county's many assets.

Access to major highways coupled with a strong work force helped attract new industries. The appeal of nearby Corps of Engineers lakes brought both new businesses and residents looking for a clean, quiet place to settle. Through the chamber's marketing efforts, service industries that could meet the needs of county residents and provide new jobs began to make their way to the county.

Since 1978, Smith County has experienced tremendous growth in both business and industrial development and diversification from banking to health care. And all Smith countians are reaping the benefits. In the decade between 1980 and 1990, the county's per capita income more than doubled, far exceeding the State average.

And as is true with any successful program, you can look around today and find some of those who first helped to get the chamber started still involved in its work. Their dedication and commitment have been a sustaining force in the chamber's success. More importantly, they have laid the foundation for continued success for the chamber and the county for the next 20 years.

I welcome the opportunity today to pay tribute to the Smith County, TN, Chamber of Commerce, its members, and the community for 20 years of working for a brighter future.