SENATE—*Tuesday, September 24, 1996*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, Almighty Sovereign of our Nation, and strength of our lives, we thank You for the privilege of living in this land You have blessed so bountifully. With awe and wonder, we realize anew the stunning truth that You have called the United States to be Your providential demonstration of the freedom and equality, righteousness and justice, opportunity and hope, You desire for all nations. O God, help us to be faithful to our heritage.

We praise You for the way You have blessed us with great leaders in each period of our history. Through them You have continued to give Your vision for the unfolding of the American dream. And this is especially true today. Bless the Senators with a renewed sense of their calling to greatness through Your grace. You have appointed them; now anoint them afresh with Your spirit. As they confront the soul-sized, crucial issues of this week, give them a spirit of unity and cooperativeness. The workload is great, the pressure is heavy, and the challenge is formidable; but, nothing is impossible for You.

Fill this Chamber with Your presence. You are the judge of all that will be said and done here. Ultimately, we have no one to please or answer to but You. With renewed commitment to You, and reignited patriotism, we press on to living the page of American history to be written this week. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning there will be a period for morning business until the hour of 10:30 a.m., with Senators permitted to speak for up to 5 minutes each. Following morning business today, it would be my intention to begin consideration of a continuing resolution. We are fast approaching the end of this fiscal year. It certainly is my hope that we would be allowed to begin this important appropriations measure. At this time, we are unable to reach an agreement to begin that bill. I tried several different approaches last Friday in discussions with the Democratic leader. We were not able to come to any agreement at that time, but we will keep working today. Hopefully, we can reach some understanding as to how we would proceed.

In accordance with the agreement reached on Friday, the Senate will resume consideration of the maritime security legislation today at 4:30, with a series of rollcall votes beginning at 5 p.m. on or in relation to pending amendments as well as final passage on that. I presume there would be at least four votes at that time. So we will have the stacked votes at 5 o'clock.

We are also hoping that the one outstanding issue on S. 1505, the pipeline safety bill, could be resolved, and we could complete action on that measure also.

It is my understanding that the VA-HUD appropriations conference report may be available for consideration this afternoon. I know that the agreement has been worked out and that they are scheduled to vote sometime today. I do not know exactly what time we will get it. But as soon as we get it, we will try to get it into the mix at the earliest possible opportunity. It certainly is an important appropriations bill dealing with the Veterans' Administration and, of course, all of our housing policies in the country. We need to get that bill completed in order for the checks to go out on time at the end of this week or certainly the first of next week.

We will stand in recess today from 12:30 to 2:15 for the weekly policy conferences to meet. Once again, I ask for the cooperation of all Senators as we begin what I hope will be the final week of the Senate's business prior to adjournment. In order to accomplish that, it is going to take a lot of cooperation, a lot of give-and-take. I certainly will make every effort to work with all Senators. I hope Senators understand that this week is going to be very hard to schedule votes around other events, especially if we are really moving seriously toward completing our work, as we should, on Friday or Saturday.

In addition to that, we are working to see if we can clear problems with the NIH revitalization authorization bill. I understand there is the potential point of order that maybe can be worked out. There is a lot of support for this important legislation. I hope maybe we could do it like we did last week on the Magnuson fisheries bill, the FAA reauthorization, and the maritime bill. We can work through those problems and hopefully get about an hour to have some discussion to get a vote.

We are also working with Senator KASSEBAUM, who is very, very interested in the job partnership training legislation. There are problems there again, a point of order, which looks like it may not be resolvable, but we may call it up for some discussion this week and see what can be accomplished.

I want to remind Senators we expect a veto override vote to occur on Thursday on the partial-birth abortion ban. And there are requests from Senators to be able to speak on that matter today also. But we would schedule a vote for Thursday.

TRIBUTE TO JOHN DURICKA

Mr. LOTT. Mr. President, the Senate and all Americans lost a true professional yesterday. Veteran Associated Press photographer John Duricka died Monday at Arlington Hospital after long battle with cancer.

The measure of John's professionalism and dedication is that he was on the job almost right up to the time of his death—doing what he loved and doing it wonderfully well.

John's combination of mature demeanor and tough determination was a familiar face to all of us here in the Senate. He was a news photographer first—make no doubt about that.

But he also respected the institution which he illustrated to the world every day with his pictures. Unlike the White House or the Federal agencies where photographers often are cordoned off from those they cover, the Congress shares its space with the media.

John Duricka respected that unique relationship that we had with him and we returned that respect with our trust and appreciation for his talent.

I want to express the Senate's sympathy to his son Darren, his daughter Tammy, and his mother Emily Duricka.

All who treasure our freedoms of the press and free expression will miss his outstanding contributions to that end. We in the Senate will miss a respected friend. I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

MORNING BUSINESS

The 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 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Georgia [Mr. NUNN] is now recognized to speak for up to 10 minutes.

Mr. NUNN. I thank the Chair.

TRIBUTE TO GEARY T. BURTON

Mr. NUNN. Mr. President, on August 13, Geary Thomas Burton tragically and unexpectedly died while undergoing surgery to correct a knee injury he sustained during a recent church-related softball game. He was only 45 years old at the time of his death. Geary was known to all of us on the Armed Services Committee and to many here in the Senate because he was a very important member of the staff of the Armed Services Committee from 1989 to 1991.

Today, I want to take this opportunity to recall Geary's many professional accomplishments and describe for my colleagues the life of this remarkable individual who served the Senate Armed Services Committee with great distinction for more than 3½ years.

Geary Burton was born on June 30, 1951, in Pittsburgh, PA. We are privileged to have his mother, Lura Burton, sitting in the Senate Gallery today, along with Geary's sister Nancy and her daughers Claudia and Claudette. It was through Mrs. Burton's love, hard work, and devotion in raising Geary and his sister, Nancy, that he developed such strong character and learned the value and importance of a good education. In 1973, Geary earned a bachelor of arts degree at Thiel College in Greenville, PA, where he majored in political science. He continued his education and earned a law degree from Duquesne Law School in 1976.

With great energy and dedication, Geary used his education and skills as an attorney in the service of our country. In August 1973, he received a commission as a second lieutenant in the U.S. Marine Corps. He served as a criminal trial lawyer on active duty with the Judge Advocate General Corps from 1977 to 1981. Even after his release from active duty in March 1981, Geary continued to serve as an officer in the Marine Corps Reserve. In November 1982, he was promoted to the rank of major. We all know the Marines set very high standards—and Geary fully met these standards. Geary's accomplishments as one of "The Few and the Proud" are notable. I recall in many conversations with Geary he was extremely proud of his service with this elite military organization.

In March 1981, Geary accepted a position with the Office of General Counsel at the General Accounting Office, where he served as legal counsel to the evaluator staff charged with auditing the Department of Defense, a very major responsibility. Geary consistently demonstrated a high degree of proficiency in performing his duties and moved quickly up the civil service ranks. In less than 7 years, he earned three promotions and obtained a GS–15 ranking at the age of 36—which is a remarkable achievement.

Geary joined the staff of the Senate Armed Services Committee as a detailee from the General Accounting Office in April 1989 to work on the complex issues of defense acquisition reform. I remember requestiang from the GAO one of their best people. We did not know Geary at the time but we really needed help. They certainly lived up to that request because they sent us a very talented young man. He quickly earned the respect and admiration of his fellow staff members as well as Senators on both sides of the aisle with whom he was in regular contact. Geary's tenure with the Armed Services Committee lasted until December 1992. During that period, he served as counsel to the committee for defense procurement and small business issues. We tried to keep Geary but finally the GAO demanded he come home because they needed him very bad.

Geary successfully conducted research, drafted legislation, and developed congressional and public support for many key legislative initiatives. He performed a vital role in helping the Armed Services Committee make numerous changes to defense acquisition policy that were required in the face of the post-cold-war defense build-down. Geary worked hard to enhance the role of small and disadvantaged businesses, historically black colleges and universities, and other minority educational institutions in defense acquisition practices. Geary's key participation in the establishment of the Pilot Mentor-Protégé Program was a direct reflection of the innovation and creativity that he brought to the committee in drafting acquisition legislation. In addition, Geary provided outstanding staff work in the oversight of programs designed to foster greater government-industry cooperation and to increase the use of commercial products and processes in Government procurement which has saved and will continue to save on an increasing basis literally millions and billions of the tax dollars for the American people. This of course has been a top priority of Secretary of Defense Bill Perry.

While Geary's dedication and professional competence contributed to a highly successful career, Geary was totally devoted to his family and the community in which he lived. He was an active member of St. John the Evangelist Baptist Church in Columbia, MD. In his extended community of Howard County, MD, Geary served as a member of the board for the African-American Coalition and helped establish the Black Student Achievement Program. There is a saying that "Those who possess the torch of wisdom should allow others to come and light their candles by that torch." Geary Burton followed this principle in both his professional and personal life to the great benefit of both the Senate Armed Services Committee and his local community. His service to our committee, to the Senate, and to the Nation was superb.

Geary will be missed most of all by his devoted family but he will also be missed by all of us who worked with him. He was simply a superb individual in every sense of the word.

In closing, Mr. President, I want to say to Geary's family—his wife, LaVarne; his two daughters, Ruth Giovanni and Beth Angela; his stepson Kevin Taylor; his mother Lura Burton; his sister, Nancy Bellony, and her daughters Claudia and Claudette—that my thoughts and prayers, and those of all of the members and staff of the Armed Services Committee with whom Geary served, are with you in these difficult days. Geary was a respected colleague and trusted friend. We will always be grateful for his service to the Senate and to his Nation. We will always recall with great fondness and with wonderful, wonderful memories his warm personality and the energy and enthusiasm with which he approached his work and his life.

I yield the floor, and I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. NUNN. Mr. President, I ask unanimous consent that Senator DODD be permitted to proceed in morning business for up to 15 minutes.

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

Mr. NUNN. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The distinguished President pro tempore of the Senate is recognized.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2104

are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, if I may inquire, I believe I have been allocated 15 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. I thank the President.

Mr. President, I have served as a Member of this body for nearly 16 years.

In that time, few accomplishments have given me as much pride as the day in February 1993 when President Clinton signed into law the Family and Medical Leave Act.

Enactment of family leave legislation threw millions of struggling Americans a lifeline.

It made it easier for the American people to balance the responsibilities of work with the needs of their families.

And most important, it said to the American people: If you or a loved one becomes ill, you won't be forced to choose between your family and your job.

I point out that we were the last of the industrialized nations—in fact, last of many nations in this World—to actually adopt a family and medical leave policy.

It took 7 years from the introduction of the legislation until it finally became law. PATRICIA SCHROEDER—also representing the State which the Presiding Officer represents—was the author of the legislation in the House. I introduced the legislation in the Senate. Seven years we spent trying to get this bill to become the law of the land. It was an experience fraught with highs and lows.

Today, September 24, marks the fourth anniversary of one of those moments on the road to passage. It was in 1992, on September 24, that the Senate voted to override President Bush's veto of the Family and Medical Leave Act. Today, to mark this important anniversary, Americans are gathering all across the country in nearly 40 States.

Families, community members, and businessmen who found life better under the Family and Medical Leave Act will meet and share their experiences with the American public. And today the First Lady will travel to Connecticut to hear from those in my State who have seen the benefits of the Family and Medical Leave Act in their own families' lives.

Now, I would like to go back to 4 years ago today. On that date in 1992, 67 of our colleagues—from both sides of the aisle—joined me in voting to override the President's veto of the Family and Medical Leave Act. It was in fact only the second veto override of President Bush. Unfortunately, 6 days later, the House voted to sustain the President's veto, thereby killing the Family and Medical Leave Act once again. It had been the second veto we had been through in 7 years.

Our former colleague, Bob Dole, the then minority leader of the Senate, was one of those 31 Senators to vote against giving America's working families a helping hand. And just this month on the campaign trail Bob Dole attacked the Family and Medical Leave Act as what he called, and I quote him, "the long arm of the Federal Government."

I think the 12 million Americans who have taken advantage of the Family and Medical Leave Act over the past 2 years would probably disagree with that view. I think that the 67 million Americans who are now covered and eligible to take family and medical leave would have a different opinion than that of the former minority and majority leader.

For those, such as former Senator Dole, who continue to doubt the success of the Family and Medical Leave Act, I urge them to examine a recent bipartisan report which highlights the success of this legislation.

You may recall, Mr. President, that as part of the legislation we formed a bipartisan commission on family and medical leave to examine what the ramifications would be. Members of the commission were made up of both Democrat and Republican appointees, as well as opponents and proponents of the legislation. We spent over a year examining the Family and Medical Leave Act with significant surveys of employers and employees, with hearings conducted across the country, as well as here in Washington, to examine what the implications of the bill had been.

The overall findings of this commission were clear. In fact, the commission was unanimous that the Family and Medical Leave Act has been an overwhelming success. What is more, according to the commission's final report, the law represents, and I am quoting the report, "a significant step in helping a larger cross-section of working Americans meet their medical and family care-giving needs while still maintaining their jobs and economic security."

The bottom line is that family and medical leave legislation is allowing millions of working Americans significant opportunities to keep their health benefits, maintain job security, and take leave for longer and greater reasons.

Let us be clear on one point. Contrary to Senator Dole's protestations, family leave has also been good for American business. The conclusions of the bipartisan report, I think, are very important in this regard. And they certainly are a far cry from the concerns that Bob Dole and others voiced when this legislation was being considered in Congress.

Mr. President, let me draw your attention, if I may, to this first chart which reflects a survey done of business leaders by the commission. The vast majority of businesses, nearly 94 percent reported little or no additional costs associated with the Family and Medical Leave Act. I was stunned by this conclusion since the commission was analyzing the initial phases of the legislation. The initial phases of a legislation are always the most difficult, with businesses having to accommodate, get used to it, and develop bureaucratic procedures within their own businesses to accommodate the new legislation.

In my view, it is almost an astounding result that 94 percent of the businesses surveyed reported no difficulty in this initial time period. I assumed that such positive results would have come later as business became more used to the law and not during the initial stages, which tend to be the most awkward time.

So that was a rather compelling result from the list of the employers we surveyed. By the way, let me add that there were hundreds of employers and employees questioned in the commission's survey of reactions to the Family and Medical Leave Act.

When it comes to the employee performance, which was another concern that was presented during the debate over family leave—as well as by our former colleague, Bob Dole—about what would be the effect on employee performances, what would happen to productivity, what would happen to growth when you had people moving in and moving out, as the critics claimed, nearly 96 percent of the employers reported no noticeable effect on growth. The concern was that this legislation would bring growth rates down. In fact, according to employers, 95.8 percent said there was no noticeable effect at all. Interestingly, 1 percent said they had a positive growth effect. If fact, we had only 3.1 percent who said it had a negative effect, again, in just the first 2 years of the bill being the law of the land.

More than 94 percent reported no effect on employee turnover. This was another accusation, that we are going to get huge turnover rates from family leave legislation, and yet on turnover rates, 94.7 percent of businesses reported no problems with turnover whatsoever.

Eighty-three percent of the employers reported no noticeable impact on employee productivity. We were told, once again, that productivity rates would fall—businesses would lose people and have to hire temporary employees to come in for a period of time. Supposedly this would cause productivity rates would fall. In fact, 83 percent said the law had no impact on productivity whatsoever. In fact, 12.6 percent

actually said the law had a positive effect on productivity because, I presume, people no longer had to worry about losing their job because of a family crisis.

As we all know, Mr. President, family and medical leave is more than just statistics. There are real Americans behind these numbers. In compiling our bipartisan report on family and medical leave, we heard testimony from Americans who have been helped by this legislation. None of the commissioners—none of the commissioners, Mr. President—will ever forget the story of the Weaver family that we heard during our hearing in Chicago.

Melissa Weaver of Port Lavaca, TX, was 10 years old when she was diagnosed with a rare form of cancer, and after undergoing a year of surgery, chemotherapy and radiation treatments, her doctor regretfully informed her parents, Ken and Rosie Weaver, that she had only a few months to live. Because of the Family and Medical Leave Act, over the next 7 weeks, the Weavers were given the bittersweet opportunity to spend every moment together with Melissa during her final days.

In January 1994, Nedra Ward, an administrative assistant in Chicago, discovered she was pregnant. After her first trimester, she developed complications, putting her health and pregnancy at risk. Her employer allowed her to take time off on an intermittent basis. Today, she has both her job and a healthy, strong, baby boy.

Jonathan Zingman's second daughter was born in 1994. Two weeks after the cesarean section birth, the baby developed an infection and was hospitalized. Jonathan Zingman took 2 weeks off from work to aid his wife in recovering from surgery, to take care of his new daughter, and to give his older daughter an opportunity to adjust to her new sister.

What the Weavers, Nedra Ward, and Jonathan Zingman all have in common is that due to the Family and Medical Leave Act, they were not forced to make a choice between their jobs and their families.

As the author of this legislation, I would prefer that no one would ever have to use it because of a sickness, but as we all know, life is not so kind. The Family and Medical Leave Act has given these three American families, as it will millions of others, the opportunity to take medical leave when illness strikes and the necessary time to care for ailing family members and loved ones.

I hope that Mr. Dole and others, particularly Mr. Dole, would retract any suggestion that he might repeal the Family and Medical Leave Act if elected. I can think of few other pieces of legislation that have had such a positive and beneficial impact on the American public as this legislation, which is now the law of the land because President Clinton signed it in February 1993. But for 7 long years we had to fight day in and day out to enact family and medical leave legislation. We fought through two veto overrides, in which we succeeded in one but eventually lost the fight in the House of Representatives. To repeal this legislation now would be a major setback, in my view, for America's working families and I hope that on this one piece of legislation Bob Dole will admit he was wrong and agree today that family and medical leave will, and must, remain the law of the land.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DODD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, is it in order to take some time as in morning business?

The PRESIDING OFFICER. The Senator may proceed.

TOBACCO

Mr. FORD. Mr. President, Kentucky writer and farmer Wendell Berry wrote that:

> Though I would just as soon get along without it, a humbling awareness of the complexity of moral issues is said to be a good thing. If such an awareness is, in fact good—and if I, in fact, have it—I have tobacco to thank for it.

Like Berry, any awareness I have of moral complexities is also thanks to tobacco. Now I know there are some people who don't think there is anything at all complex about the tobacco issue. For them it is simply money versus morality.

For them there is no family business, there is no tradition, there is no farmer. And perhaps most disturbing—there is no appetite for reason.

That is something that we seem to be in short supply of here, from those who are determined to regulate an industry out of business to those who would rather play politics than protect our farmers.

These opportunists are thinking only of themselves and today, rather than all of us and tomorrow. And in the process, teenagers keep smoking, farmers fret about their futures, and the litigation continues.

I will admit that when it comes to Kentucky, I can be as hard as a bull's head. But, on the issue of teen smoking, I have been as reasonable as they come. I am one of the biggest defenders of tobacco, yet 1 year ago I, Wendell FORD, introduced legislation putting severe restrictions on the tobacco industry in an effort to reach a reasonable solution to the problem of teen smoking. Today, a full year later, none of my friends on the other side of the aisle have joined as a cosponsor or offered other legislative options.

And this is not my first attempt at reason on the issue of youth smoking or on the issue of the health effects of smoking by any means.

Mr. President, when I was Governor back in 1973, I worked with the legislature to create the Tobacco Research Board and authorized the University of Kentucky to begin an intensive research program directed toward "proving or disproving questions about health hazards to tobacco users . . .."

In 1984, I sat down at the table and came up with reasonable warning labels for tobacco products.

In 1992, I sat down at the table and hammered out an agreement on a national minimum age for the purchase of cigarettes. We backed those SAMSHA purchasing requirements with teeth, to ensure States did everything they could to enforce the law.

In 1994, I was right at the table when my colleague, Senator LAUTENBERG, decided to offer his pro kids bill, prohibiting smoking in any building that receives Federal funds and to which children have access. I did not stand in the way.

I sat down at the table time and again because like everyone else, I am against youth smoking. But I also sat down at the table because I realized that inaction was not a solution to the problem of youth smoking, just as it is not a solution today.

Don't get me wrong. I am as angry as I can be that the FDA is being given jurisdiction over tobacco. Bringing in the FDA will only create a whole new bureaucracy when tobacco is already regulated by at least seven Federal agencies including USDA, HHS, BATF, IRS, SAMSHA, EPA, and the FTC. I have it right here, Mr. President, a stack of all the current Federal tobacco laws and regulations—oh, about 18 inches tall—and this does not even include the tens of thousands of pages of State tobacco law and regulations. And now with the new FDA regulations, I can add another 200 pages from the Federal Register to this stack here on my desk.

But despite my frustrations and complete opposition to FDA regulation, I know that simply ignoring the problem is not going to fly, just as putting tobacco out of business is not going to fly.

The only answer is a legislative solution. Unfortunately, instead of working with me over the past year to come up with a legislative solution for our farmers, many in Congress have chosen to use the FDA regulations as a campaign rallying cry. But while they are

stonewalling to win the tobacco farmers' vote today, where will they be if the courts rule against our farmers tomorrow? They must be prepared to answer for their inaction.

Anyone who says this can be solved with one vote at the polls in November is not shooting straight. That is because everyone familiar with this issue knows that the FDA would have been sued if they took this action, and they would have been sued if they took no action.

I do not care who you have in the White House next January or holding the gavel here in Congress, you have a problem that is going to be solved one of two ways—in the courts or in Congress. It's a fact that farmers have a bigger voice in the Halls of Congress then they do in a court room. We are forcing farmers to play Russian roulette with the court system and giving them an uncertain and ambiguous future.

It has been clear to me—and should be clear to others—that we must have a legislative solution for our farmers. We need a legislative solution because FDA jurisdiction has been rejected by the courts in the past, because the question of FDA regulation may be tied up in litigation into the next century, and because many aspects of the FDA regulation go beyond what is needed to target youth smoking.

With good reason, tobacco supporters are most troubled by this last reason—that the FDA regulations go beyond what is necessary to target teen smoking. We do not believe Dr. Kessler's desire to reduce smoking is his only motivation for regulating tobacco, and the regulations themselves further undermine his credibility on the issue. Let me quote, Mr. President, from the Federal Register notice accompanying the regulation:

> . . . FDA intends to classify cigarettes and smokeless tobacco at a future time,—

Classify cigarettes and smokeless tobacco at a future time?

> and will impose any additional requirements that apply as a result of their classification. . . .

It does not sound like they are just after youth smoking.

Like me, my farmers want to know exactly what that means for tobacco. According to Dr. Kessler, a pretty grim future. Back in February 1994 in a letter concerning FDA authority over tobacco, he wrote:

> A strict application of these provisions could mean, ultimately, removal from the market of tobacco products containing nicotine at levels that cause or satisfy addiction. Only those tobacco products from which the nicotine had been removed or, possibly, tobacco products approved by FDA for nicotine-replacement therapy would then remain on the market.

Documentation like this makes Dr. Kessler's interest in the narrow issue of teen smoking suspect to say the least. In fact, his public statements and testimony in 1994 are full of references to FDA regulations, but never in the limited context of youth smoking. I don't think I am alone in fearing that the sympathetic issue of youth smoking has become a convenient vehicle for darker ulterior motives.

A legislative solution is clearly needed to prevent Dr. Kessler from promoting his agenda under the guise of youth smoking. But that legislative solution will come only if all the players are sitting at the table ready to negotiate. It has never worked any other way with tobacco.

Congressman BAESLER and I have had legislation out there for a full year. What it represents is a good starting point for protecting tobacco farmers' interests instead of leaving the decision to some court that we have no control over. But, while we've got Members willing to protect NASCAR and rodeos with legislation, we've found little support from other tobacco State Members to try and help our farmers. Congressman BLILEY has gone so far as to say this is a question for the courts, not Congress.

Think about it. This year two of the largest tobacco companies have come out with even tougher proposals than mine in an effort to have a legislative solution that keeps FDA out of the business of regulating tobacco. Some will dismiss the tobacco company's action as public relations. I call it being reasonable.

They too, have found little support. This should be a team effort but instead has turned into partisan conflict that has wasted an entire year and weakened our overall strength in the fight to save the youth from smoking and to protect our farmers.

Mr. President, I introduced my legislation because I am fiercely opposed to Government interference in the legal decision of adults in this country. I introduced this legislation because I believe someone needs to truly look out for the tobacco farmers' interests. I introduced this legislation because I believe the problem of teen smoking calls for reason, not rhetoric.

Over and over again, I have sat down at the table and tried to come up with solutions for my farmers. For this past year I sat at the table alone because others would rather play politics. I believe the decision to stay away will have long-term implications for the future of tobacco farming and for the well-being of the industry as a whole.

Mr. President, Dr. Kessler was able to introduce his regulations because he said cigarettes were a device. Now he has made the thumb and two fingers a device because he says smokeless is included in that. So if you dip and get some tobacco, then your thumb and two fingers become a device—a device. So, cigarettes are a device, your thumb and index fingers are a device.

Something about this is wrong, Mr. President. After the November election is over, I am sure it will get out of the political arena as some try to bilk the tobacco companies for all the campaign funds they can get and they try to bilk the poor tobacco farmer out of a vote. Once November 5 is past, maybe we will be able to find someone willing to sit down at the table.

I was chastised in a letter I received yesterday for being in the position I am in. They say that—taking their numbers—3,000 young folks start smoking every day; that is over 1 million a year. With the litigation of these regulations being in the courts 3 to 5 years, say 5 years, they themselves have allowed over 6 million young people to start smoking, instead of sitting down trying to work out something reasonable that can stop it.

Now, you say you are trying to protect the farmer. I am, but I voted for every piece of legislation that has come through here to help prevent youth smoking, from labeling to smoke-free schools. I voted for SAMSHA, which is imposed upon the States. Where are those who want to do something for youth? All they want to do is run ads in the newspapers against my colleagues. They want to write big stories and have a lot of money in their till so they can get out there and beat their chest about how wonderful a job they are doing, while they are letting youths go down the tubes and the tobacco farmer go down the tubes.

Mr. President, I ask my colleagues, those affected by this issue, come reason together. Reason together so we can return to our farm families not only a sense of security and stability but a sense of dignity about the work they do.

I yield the floor.

COMMUNITY SERVICE MAKES A DIFFERENCE

Mr. NUNN. Mr. President, I am pleased to speak today regarding a recent collaboration between AmeriCorps and Habitat for Humanity. Everyday on television and in newspapers we are reminded in some way of the problems of our Nation's distressed urban areas. I would like to draw the attention of my colleagues to one example of how community service is making a real difference in the area of affordable housing for hard-working families in cities across the country. On June 22, 1996, Habitat for Humanity sponsored the Home Stretch Build. Several hundred community volunteers and 75 Habitat AmeriCorps members from Americus and Savannah, GA; Miami, FL; Cleveland, OH and the District of Columbia built nine new homes in Southeast Washington, DC. That day Habitat for Humanity founder and president, Millard Fuller, said the following about the AmeriCorps Program:

There are a bunch of good folks out here today, doing something very, very worthwhile. I'm particularly pleased with the AmeriCorps people here, over 75 of them, and I want to salute you . . . for the outstanding work that you do. This army of peaceful people, who are making good news happen all over this Nation. Twenty-five thousand of them. And I want you to know that we at Habitat for Humanity feel privileged and honored to have the AmeriCorps people with us, and we want more of them as time goes on. We love to be partners with you in this work, and I salute all the AmeriCorps people.

Mr. President, this is another in the long list of examples of national service participants reaping the threefold benefit of national service—benefit to the community where the service is performed, benefit to the servers for serving their communities, and the benefit derived from the education of the servers in the future. I applaud the National Service Corporation for its ongoing efforts, and urge my colleagues to take note of the successes of these young people.

I yield the floor.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 23, the Federal debt stood at $5,192,406,060,962.74.

Five years ago, September 23, 1991, the Federal debt stood at $3,628,836,000,000.

Ten years ago, September 23, 1986, the Federal debt stood at $2,107,785,000,000.

Fifteen years ago, September 23, 1981, the Federal debt stood at $977,809,000,000.

Twenty-five years ago, September 23, 1971, the Federal debt stood at $415,377,000,000. This reflects an increase of more than $4 trillion, $4,777,029,060,962.74, during the 25 years from 1971 to 1996.

BRAIN INJURY ASSOCIATION PERFORMING GREAT WORK

Mr. HELMS. Mr. President, traumatic brain injury is a silent epidemic which afflicts one person in the United States every 15 seconds. Nearly 250,000 Americans suffer severe head injuries; and brain injury is the No. 1 killer of young Americans under the age of 40. More than 20 million Americans are affected one way or another by brain injury, with an estimated 60,000 deaths expected this year alone.

The Brain Injury Association, Inc., chaired by Martin B. Foil, Jr., of Concord, NC, was instrumental in the passage of the Traumatic Brain Injury Act which was signed into law on July 29, 1996. Mr. Foil, and his wife, "Puddin," have worked tirelessly over the past 5 years to help pass this important legislation. The Foils' son, Philip, was injured in a car accident and suffered serious brain injury. The Foils turned that personal tragedy into a triumph for others. The Traumatic Brain Injury Act has focused a national spotlight on brain injury as a major health problem, and provides research grants for the prevention, treatment, and rehabilitation of brain injury.

Mr. President, brain injury in the United States costs an estimated $48.6 billion annually. Most of this expense is paid for by taxpayers through Medicare and Medicaid. It is hoped—and that is what the Traumatic Brain Injury Act is all about, providing hope—it is hoped that funds from the Traumatic Brain Injury Act will lead to innovative treatments which will help victims and their families better deal with this devastating injury.

Mr. President, I ask unanimous consent that a Charlotte (NC) Observer article regarding the Foil family dated August 4, 1996, be printed in the RECORD at the conclusion of my remarks.

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

[From the Charlotte Observer, Aug. 4, 1996]

CONCORD TEEN'S BRAIN INJURY LED PARENTS TO FIGHT FOR MORE PREVENTION AND RESEARCH

(By John Monk)

Between the grim aftermath of the crash of TWA Flight 800 and the attention riveted on Atlanta's Olympics, it passed almost unnoticed. But Martin Foil, wife "Puddin" and son Philip of Concord pulled off their own Olympian feat last week.

President Clinton invited the family to the White House as he signed a bill aimed at preventing and researching traumatic brain injuries. For the Foils, the signing in the Oval Office culminated two long struggles: their 12-year-old battle with a brutal accident that left their son disabled, and their fight to find treatment for similar injuries.

"We've been working on this 5 years," said Foil, 63, CEO of Tuscarora Yarns, Inc. in Mount Pleasant, NC, and chairman of the Washington-based Brain Injury Association.

The bill authorizes $15 million in research grants for the prevention, treatment and rehabilitation of brain injuries. It allots an additional $9 million for the Centers for Disease Control to monitor brain injuries.

The Foils' struggle began more than a decade ago.

In December 1984, Philip Foil was driving home from Concord High School. At 16, he was a bright, well-liked student who tutored colleagues in algebra and wanted to be a doctor. A car crossed a center line and slammed into Philip's car. In an instant Philip suffered severe head injuries. For 114 days, he lay in a coma. He woke to a life where, because his brain can't signal his body, he would need rehabilitation and care the rest of his life.

The Foils discovered that many people with traumatic brain injuries fall through the cracks of the nation's medical system. Brain injuries are not always formally recognized. Families who must care for the victims undergo enormous stress.

"Many people have been denied benefits from government programs, from insurance companies, as a result," said Dr. George Zitnay, president of the Brain Injury Association.

In the first years following Philip's accident, the Foils concerned themselves with his rehabilitation. He has made enormous progress, now able to walk with assistance and talk with the help of a vocalizing machine.

These days, there are tens of thousands of people like Philip. Modern medical treatment means many more people than ever survive brain injuries. No one has exact statistics on the number of brain-injured people. But the association estimates that up to 56,000 Americans die and more than 300,000 are hospitalized each year. Of the hospitalized, nearly 100,000 will sustain lifelong disabling conditions from sports, gunshot, and traffic accidents.

Most people who survive brain injuries are likely to live out their normal life span in a handicapped condition, and the cost is prohibitive.

"The average cost for a debilitating brain injury is $6 million or more," said Foil.

For years, Foil said, his grief over his son's injury kept him from getting involved in efforts to help publicize brain injuries. Gradually, he reached outward and contacted the association.

In 1992, when Foil became chairman, he gave top priority to passing legislation to research and prevent brain injuries.

Thousands of groups and lobbyists try each year to get legislators to introduce bills, but only a small percentage wind up as law.

Luck intervened.

Representative Jim Greenwood, R-Pa., was elected to the U.S. House of Representatives in 1992. As a state senator, Greenwood had won reforms for brain-injured victims.

Once in Washington, Greenwood was assigned to the House Commerce Committee, where any brain-injury legislation would originate. He became an expert in health care and won GOP leadership backing for a bill involving about $8 million a year for three years, a tiny sliver of the $1 trillion-a-year Federal budget.

Meanwhile, Foil's group won allies in the Senate, including Sens. Edward Kennedy, D-Mass., and Nancy Kassebaum, R-Kan. In July, Congress passed the bill that Clinton signed last week.

The Foils' battle is not over.

Their son, Philip, lives at home and will always need care. His parents are thankful he's a vital part of the family.

Congress may take a second action. Clinton signed an authorization bill—a law that allows money to be spent for a specific purpose. Now, Congress must pass an appropriations bill, which will actually permit the money to be spent.

"We'll get the money," said Foil. "Congress would be ashamed not to give it to us."

TRIBUTE TO SENATOR NANCY KASSEBAUM

Mr. HEFLIN. Mr. President, it took many of us by surprise when the junior Senator from Kansas, NANCY LANDON KASSEBAUM, announced late last year that she would not run for reelection this time. She and I arrived in the Senate together after being elected in 1978, and it has been honor to serve here with her. Now, we will be leaving together when our terms expire at the end of this Congress.

Senator KASSEBAUM is someone who is thoughtful and deliberative, and her colleagues truly listen to her. She also

has a willful determination which not only commands but earns the respect of others. She comes from a well-known political legacy as the daughter of the 1936 Republican nominee for President Alf Landon, who lived to be 100 years of age. She has consistently demonstrated shrewdness, intelligence, and prudence in her approach to the issues since she has been in office.

Senator KASSEBAUM is perhaps best known for her leadership as ranking member and chair of the Labor and Human Resources Committee, working there for bipartisan agreements on the many contentious issues which confront that committee. She is also known for her role in foreign affairs, having worked for many years on the Subcommittee on African Affairs of the Foreign Relations Committee. She was a major force behind the establishment of sanctions against South Africa and was key in deciding the conditions under which they should be eased before apartheid finally ended. Her background in education and the humanities has made her a strong leader on these issues as well.

The people of Kansas and the Nation have benefited greatly from the service of NANCY KASSEBAUM in the U.S. Senate. She has led by example, and this body will be a decidedly lesser place after she leaves. I commend her and wish her well as she moves on to a new phase of her life.

TRIBUTE TO UYLESS WARDELL WHITE

Mr. HEFLIN. Mr. President, I would like to bring to the attention of my colleagues a tribute written by Christopher Lee McCall to his uncle, the late Uyless Wardell White, of my hometown, Tuscumbia, AL. The Whites are known as a pioneer family in northwest Alabama. They are well-known in the Muscle Shoals area for Christian fellowship, civil responsibility, excellence in education, and total family devotion.

This fitting tribute written by Christopher McCall to his uncle invokes the memory of the love of Ruth for Naomi found in the Bible in the First Chapter of the Book of Ruth, verses 16 and 17:

> . . . entreat me not to leave thee, or to return from following after thee: whither thou goest, I will go; and where thou lodgest, I will lodge. Thy people shall be my people, and thy God my God: Where thou diest, will I die, and there will I be buried: The Lord do so to me, and more also, if I ought but death part thee and me.

Mr. President, U.W. "Cush" White was a model for his nephew, Christopher, to emulate. I ask unanimous consent that this tribute to U.W. White be entered into the CONGRESSIONAL RECORD immediately following my remarks.

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

(By Christopher Lee McCall—In loving memory of my uncle, Uyless Wardell White)

SOMEDAY

Someday we'll see you again,
Although we know not when:
We all loved you so very much.
But now we're out of touch.

Your face will be with us always;
We'll think of you everyday,
Never to forget what you gave us;
You brought us all such happiness.

Uncle Cush, we'll miss you,
With all our hearts and souls,
But to know you're somewhere safe
Away from this terrible place
Will help us to overcome
The sorrow we feel inside.

Though it will never cease,
This hollow feeling that we feel,
We know that someday soon,
We'll see you again!

TRIBUTE TO SENATOR DAVID PRYOR

Mr. HEFLIN. Mr. President, when I learned that Senator DAVID PRYOR was not planning on seeking reelection this year, I realized that few Members of this body have meant so much to the Nation while at the same time serving the people of their State.

Back in 1951, at the age of 16, young DAVID PRYOR served as a page here in the Senate. Looking back, he summed it up this way: "It was the first time I'd seen Washington, the first time I'd seen the Capitol, the first time I'd seen the Senate, and the first time I'd been in a taxicab."

Times have changed since 1951. Most of the faces that DAVID PRYOR saw during that initial visit are long gone. Some of the problems facing the Nation have been solved. New ones have arisen. But, since his election by the people of Arkansas in 1978, the same year I was first elected, Senator DAVID PRYOR has worked for this Nation's betterment. He is perhaps best known for his excellent work on behalf of the Nation's elderly citizens through the Senate Aging Committee, which he chaired for several years.

The State of Arkansas has benefitted immeasurably from his service. Alongside men like Senators J. William Fulbright and DALE BUMPERS, Senator PRYOR has been an outstanding standard bearer of the legacy and tradition of those who have served Arkansas in the Senate.

"Smart as heck" was how he described Senator Fulbright in 1951. It will be no surprise to read similar comments written by those pages who have encountered Senator PRYOR during their service. He is also a true gentleman, and always treats others with respect and courtesy, traits that are all-too-often missing in today's harsh political climate.

He is a man with deep ties to his State. He started his own newspaper in his home town after graduating from the University of Arkansas. He spent years as a country lawyer, serving everyone who walked in the door. In fact, as a lawyer, he participated in the famous coon case—an ownership dispute over a dog in which the judge allowed the dog to choose its own owner.

The Senate itself has benefitted from the efforts of DAVID PRYOR. He has worked to maintain its dignity and unique style of debate and policymaking. He has served in the Senate for nearly 18 years. We came here together, and will leave together.

Senator PRYOR has made many contributions to both his constituents and his colleagues. We will wish him well as he leaves to enter a new phase of his life.

TRIBUTE TO SENATOR JIM EXON

Mr. HEFLIN. Mr. President, along with many of our colleagues, the senior Senator from Nebraska has announced that he will retire at the end of this Congress. When JIM EXON leaves, the Senate will have lost one of its most loyal and dedicated Members. The business of governing often comes down to being a team player. While he has not been reluctant to stand his ground when his conscience required him to do so, JIM EXON has also stuck by his team on the toughest votes that help to define our two parties.

Senator EXON has gained our deep respect because of the wisdom of the measures he has advocated. He wrote the law that prevents the foreign takeover of American corporations which threatens our national security. Also, he increased the penalty for drug sales near truck stops to make America's highways even safer. These are just two of the numerous legislative initiatives JIM EXON accomplished during his successful tenure in the Senate.

He has been quick to recognize and adapt to the dramatic global changes which have occurred over the last 6 years. His foresight in advocating the establishment of barter arrangements with the former Soviet Republics will become even more apparent as those nations become more fully integrated into the world economy.

Senator EXON has not been afraid to stand by his beliefs. While we were not always on the same sides of a given issue, there has never been a doubt in my mind that he based his decisions and votes on what he believed to be in his State's and the country's best interest. He has been an outstanding leader on defense and national security issues.

Senator JIM EXON has demonstrated in his 18 years in the Senate that he is valuable both for his inclination to be a team player and his willingness to stick to his position in the face of stiff opposition. We were elected the same year, and will be leaving together when our terms expire early in 1997, and I wish him well. The people of Nebraska

have had a true friend in Senator JIM EXON.

TRIBUTE TO SENATOR PAUL SIMON

Mr. HEFLIN. Mr. President, 2 years ago, we in the Senate—and the Nation—were saddened to hear that our colleague PAUL SIMON would not seek reelection this year. As a national figure who truly embodies integrity, respectability, and character, Senator SIMON will certainly be missed here.

PAUL SIMON was one of the first politicians to disclose his personal finances so that they would be open to scrutiny by the public. He has firmly supported a balanced budget amendment in order to prevent the Government from continuing to spend itself into greater debt. He has been the Democratic standard bearer on the balanced budget amendment legislation, and I am still hopeful that we see it become a reality before we both leave in early 1997. In the same vein, he has supported a line-item veto for the President to allow the Chief Executive to trim fat from the budget. Senator SIMON recognizes that the Founding Fathers did not intend for the Government to operate in the red.

I think that Senator SIMON's strong commitment to integrity in Government can be traced to his roots in the newspaper business. At the age of 19, he bought his own newspaper, the Troy Tribune. As its publisher, he crusaded against local gangsters who had subverted local law and order. His success in running his own newspaper no doubt influenced his belief in the ability of the Government to operate in a thrifty and effective manner while maintaining the same honesty that he had shown in running his paper.

The business flourished, expanding to 14 papers. Then he decided to sell his interest so that he could devote himself full time to serving his country through Government service. We will always remember the candor, wit, and knowledge he brought to the 1988 Presidential race.

It has been my personal privilege and pleasure to have served on the Senate Judiciary Committee with him. He is not a lawyer, but his keen insight into the legal issues that affect real people is enlightening and instructive. He is an outstanding member of that committee.

This body will be a decidedly lesser place without PAUL SIMON. We congratulate him and will wish him well after he leaves.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may speak up to 10 minutes in morning business.

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

IMMIGRATION EDUCATION

Mr. SPECTER. Mr. President, in a few moments the House and Senate conference committee on the immigration bill will meet, and I believe we will approve far-reaching reform on immigration by striking out the so-called Gallegly amendment, which allows the States to deny public education to children who are not legally present in the United States.

The Gallegly amendment, Mr. President, is fundamentally unfair because it is directed at children. It is my view that the children ought to have an opportunity for education for many reasons. One reason is that if they are to be self-supporting adults, if they are to have an acceptable quality of life and become good citizens or residents of the United States of America, they need an education. Second, if they are not in school, they are going to be on the street, and there will be problems of delinquency, there will be problems of juvenile crime.

The answer is not to exclude illegal alien children from having an education, but instead to tighten up the restrictions on illegal immigration and to protect our borders. The immigration bill which is now pending in the House-Senate conference will be a significant step forward in reform, to reform the immigration laws, to protect U.S. borders, to provide for expeditious treatment of immigrants who are illegally in the United States, to deport those immigrants in accordance with our laws.

It is said that the education of illegal alien children is a magnet to draw illegal immigrants into the United States. The answer is not to exclude those children from education, but the answer is to protect American borders so that the illegal immigrants do not gain access to the United States, do not enter the United States, and that children are not here, posing a significant problem in terms of their conduct on delinquency and crime and in terms of their conduct when they grow to adults, assuming they stay in the United States.

There have been those who say that it ought to be the financial responsibility of the Federal Government to pay the cost of education, and I am in agreement with that principle, Mr. President. It has been a failure of the Federal Government to protect U.S. borders. I think it is fair to respond that it ought to be the obligation of the Federal Government to pay to educate the illegal alien children that it has allowed to enter. However, the answer is not to deny those children education while they are in the United States.

Mr. President, I believe it is very important to make sharp distinctions as to how we treat children of illegal immigrants from how we deal with the problem of illegal immigration generally. The way to deal with the problem of illegal immigration is to protect our borders. It is not to deny education to children once they are in the United States. Neither is it sound, sensible, or fair to deny citizenship to children who are born in the United States to immigrants who have illegal status. The hallmark of America, the hallmark of the Statue of Liberty, and the hallmark of the melting pot is to respect the status of American citizenship of any child born in the United States.

That is a matter, Mr. President, that I feel particularly strong about since both of my parents were immigrants. They both came to the United States legally; that is, to the best of my knowledge, information, and belief they came legally. My father came from Ukraine in 1911—literally walked across Europe, sailed at the bottom of the boat, in steerage, to come to America to find an opportunity for himself and his children. Harry Specter, my father, didn't know that he had a round-trip ticket when he came here—not back to Ukraine but to France, and not back to Paris and the Follies Bergere, but to the Argonne Forest, where he served in the American expedition forces to make the world safe for democracy, with shrapnel in his legs until the day he died.

My mother came with her family as a child of 5 from a small town on the Russian-Polish border, I believe with legal immigrant status, although I would be hard pressed to prove that my parents were legal immigrants if someone were to challenge the status of ARLEN SPECTER as a citizen of the United States.

But when we deal with the problem of illegal immigration, or legal immigration, we have to have a very, very sharp focus on what is appropriate public policy. The bill in its final form, in my judgment, is somewhat too harsh in taking away benefits from legal immigrants and denying some benefits to other immigrants. But I think reform is necessary, and the compromise that has been worked out is a reasonably good compromise, and if we find problems, we can correct them at a later date.

But I want to repeat that it is obnoxious, unfair, and un-American to deny U.S. citizenship to anyone born in this county, no matter what their status. I am glad that the bill before us does not incorporate this proposal.

The conference report has been held up for a very protracted period of time over the Gallegly amendment because there is so much sentiment in the Congress that we ought not to deny education to children regardless of their immigration status. There has been the threat of a veto from the White House. But I think it is highly unlikely that the conference report could pass the Senate with the Gallegly amendment in it.

There has been an effort by a variety of amendments to grandfather children so that once they are in school, they

can complete the 6th grade and elementary school or complete high school. There was an amendment which I had suggested, which I was not really fond of and didn't really think was the ultimate solution but a stop-gap measure, to have a mandatory, expedited vote in 2½ years, 30 months after implementation of the Gallegly provision, to see the impact of the Gallegly provision on delinquency, on education, and on family life, and then a second vote at the end of 5 years, 60 months. I felt that the Gallegly amendment would, if presented in isolation, be rejected by the Congress, and that we would not deny education to children in this country regardless of the status of their parents. But I believe, after a lot of deliberation, the issue has been resolved.

I am looking forward to the conference which will start in just a few minutes in which we will delete the Gallegly amendment so that the States will not have the option to deny education to children regardless of their parents' status. We can bring this immigration reform bill to the floor, and we can pass it and, I think, have it signed into law.

I thank the Chair. In the absence of any other Senator, 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. CONRAD. 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. PEROT AND THE PRESIDENTIAL DEBATES

Mr. CONRAD. Mr. President, I would like to comment briefly on the decision to exclude Mr. Perot from the upcoming Presidential debates. I want to make it clear from the outset that I support my President and I support my party, but I do believe that Mr. Perot ought to be included in these debates. After all, Mr. Perot and his party have now qualified to be on the ballot in all 50 States in this Nation. He has become eligible for Federal funding. In fact, he will receive nearly $30 million in Federal funding, based on his previous performance. Last election he received nearly 20 percent of the vote nationwide, and some exit polls indicate he would have done even better if people had not already made the judgment that he could not win. In polling that has been done this year, 76 percent of the American people have indicated they would like to see him included.

I think, for all of those reasons, Mr. Perot deserves to be included. But I think there are other reasons as well. I think Mr. Perot has made a significant contribution to the national debate and discussion over deficit reduction. Frankly, if you go back to the 1992 debates and the 1992 campaign, Mr. Perot can rightfully claim that he served as a prod to both parties to discuss deficit reduction. I believe that remains one of the foremost challenges this country faces. Mr. Perot would help the debate, in terms of a focus on deficit reduction.

Mr. Perot has also made a contribution in two other areas that have received very little attention during this Presidential campaign. First, with respect to the question of trade, he has a different view than either the Republican challenger, Mr. Dole, or the incumbent President, President Clinton. This country deserves a debate and discussion on trade policy as part of this Presidential campaign.

Finally, I think Mr. Perot has also made a contribution with respect to the question of campaign finance reform. We have heard virtually nothing in this campaign about campaign finance reform.

I hope the Presidential commission will review their decision and decide to include Mr. Perot. Again, I emphasize, I am not a Perot supporter. I do not intend to vote for him for President of the United States. I intend to support the President. I intend to support my party. I think the President has an outstanding record in terms of actually delivering on deficit reduction.

I recall very well, when the President came in, in 1992, he inherited a budget deficit of $290 billion. That has now been reduced, by the best estimate for this year, to $116 billion, about a 60-percent reduction. In fact, the deficit has come down every year for 4 years in a row.

Partly because of the Clinton economic plan that was passed in 1993—that was a deficit reduction plan—I believe we have seen the resurgence of this economy. We have become the most competitive nation in the world, replacing Japan. Not only have we seen a dramatic reduction in the deficit, but we have seen a significant strengthening of economic growth. We have had the strongest private sector economic growth on this President's watch than on that of the last three Presidents. We have also seen the lowest misery index—the measure of inflation and unemployment—in 28 years. Business investment is increasing at a rate that is the highest in 30 years. We have seen the creation of more than 10 million new jobs during this President's term.

I think this President has an outstanding record to take before the American people. But I think most of us also know that the job is not finished. The job is not yet completed. More needs to be done. I do believe Mr. Perot would play a positive role in putting a focus on the additional deficit reduction that needs to be made in this country.

As I have stated, I also believe he would make a positive contribution to a debate on trade policy and with respect to the question of campaign finance reform. I am sure the occupant of the chair may share these views. Or perhaps not.

I do think the commission's decision is fatally flawed. When they make a determination that somebody not be included because they have no realistic chance of winning, what are they going to do when one of the two major candidates has no realistic prospect of winning? We have had several Presidential campaigns where that was the case. Let's go back to the 1984 Presidential race with Ronald Reagan as the incumbent President. There was no realistic chance anybody was going to beat him. Should we have canceled the Presidential debates altogether?

This year we see the challenger 17 points behind. Nobody has ever made up that kind of gap. Should the Presidential commission determine Mr. Dole has no realistic chance of winning the election, and therefore cancel the debates? The logic used by the commission—that because somebody does not have a realistic prospect of winning the election they should be excluded from the debates—is a slippery slope.

We ought to include those who have met the tests that Mr. Perot has met. I understand Mr. Perot is a controversial figure. His 1992 Presidential campaign—with his entrance into the race, his withdrawal, and his reentrance—raised many questions. But we are still left with some basic facts.

First, he has qualified to be on the ballot in all 50 States. He has done that. His party has qualified to be on the ballot in every State in the Nation.

Second, he has become eligible for Federal matching funds. The only people who have managed to do that this year are Bill Clinton, Bob Dole, and Ross Perot. Nobody else has qualified to get Federal matching funds.

Third, he received nearly 20 percent of the national vote in the last election. I think that merits inclusion in these debates. Finally, perhaps most important, the vast majority of the American people, according to the polls, want him included. They want to hear a debate that includes Mr. Perot. It does not mean they want to vote for him necessarily, but they want to see him included in the debate.

As I have said before, I think he has demonstrated he has made a positive contribution on the issues of deficit reduction, trade, and campaign finance reform.

So, I hope the Presidential commission will review their decision and decide to include Mr. Perot without having a court have to review this decision for them.

I thank the Chair, yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The distinguished Senator's thoughtful comments are well received, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 10 minutes.

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

The distinguished Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

SENATOR JIM EXON

Mr. BYRD. Mr. President, I pay tribute today to Senator JAMES EXON, who is completing his third term in the Senate and has unfortunately, decided to retire. His retirement caps a long and distinguished career of public service unique to his home State of Nebraska. JIM EXON and I have served together on the Armed Services Committee, and I have admired his strong support of our national defense. At the same time, as a conservative, and as ranking member on the Senate Budget Committee, Senator EXON has had a practical, direct, moderate temperament which has put him in tune with national sentiment on the need to control spending. He has been a leader of efforts to balance the budget, and that includes a need to reduce defense spending where possible, given the end of the cold war, and particularly in tempering the tendency to throw too much money on expensive new hardware systems.

JIM EXON is against waste and he has put his legislative shoulders behind that effort. He would agree with William Shakespeare, who wrote in King Henry V:

I can get no remedy
against this consumption of
the purse: borrowing only
lingers and lingers it out,
but the disease is incurable.

JIM EXON will be missed here. I shall miss his candid style, his no-nonsense temperament, and his refreshing directness, all of which are mixed with a down-home sense of humor. As a Senator, JIM EXON has always retained a modest sense of himself, never succumbing to the inflation of ego, which is a constant temptation in a body so much in the national limelight.

Senator EXON's success as a three-term Senator follows a string of other successes. After graduating from the University of Omaha in 1942, he volunteered for the U.S. Army Signal Corps and served in the Pacific theater in New Guinea, in the Philippines, and, finally, in Japan, and was honorably discharged as a master sergeant in December of 1945. He returned from the war to start a business career and developed a very successful office equipment company.

At the same time, he followed in his family's political footsteps. His grandfather served as a county judge in South Dakota, and JIM's early grassroots experience came in campaigning for his grandfather there. JIM started in politics by becoming a prominent leader of the Nebraska Democratic Party, serving as State vice chairman and National Committeeman.

JIM came to the Senate in 1978 after having served as the Governor of Nebraska for two terms from 1970–1978, longer than any other person in that State's history. The experience served him well. He was rewarded by the people of Nebraska when he achieved the unique accomplishment of having been elected directly to the United States Senate.

JIM EXON comes from the heartland of America and is an admirable reflection of the values, the solid citizenship, and the loyalty that characterize our heartland. He reflects the basic American values that honor family, fiscal responsibility, and national security.

Last year in the context of landmark telecommunications reform legislation, he was the author of a provision intending to protect children from computer pornography by making it illegal to send indecent material to a child or display it on computer screens where children can access it.

He has been, as well, a leader in protecting American businesses from takeovers by foreign firms in the area of national security. Known as the Exon-Florio law, passed in 1988, this act gave the President authority to investigate and stop foreign takeovers of American companies in the case where the takeover would threaten U.S. national security.

JIM EXON is rock solid. This year he and his wife, Patricia, will have celebrated their 53rd wedding anniversary, which goes to show that you can still stay married to your first wife a long, long time. He returns to Nebraska to join his three children, Steve, Pam, and Candy, along with his eight grandchildren, a very wealthy man he is indeed—eight grandchildren.

In citing his reasons for retirement, JIM EXON laments recent trends in American politics, such as the "vicious polarization of the electorate," the erosion of the art of honest compromise as the essence of the Democratic process, and the negative attack ads dominating current political campaigns. As he departs, I hope that he will be a continuing force against these trends and that he, at least, will help inculcate in the new men and women who are entering politics in Nebraska the same values of fairness; good humor; practical, independent sense—common sense—and honest achievement that have so clearly emphasized and characterized his own career.

Mr. President, I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATOR DAVID PRYOR

Mr. BUMPERS. Mr. President, I have come to the floor this morning to pay tribute to my distinguished retiring colleague, DAVID PRYOR.

When I think about Congress suffering—and I use the term "suffering" advisedly—the largest number of retirees in 100 years, I have a tendency to wax eloquent about my own personal beliefs as to why that is happening. There are 13 Senators who have chosen to leave voluntarily this year. Among them are some of the very best.

I have confessed on occasion when I didn't think it would hurt me politically to the fact that I am not a terribly effective legislator because I have a very difficult time compromising. I have strong beliefs, and sometimes compromise is just out of the question for me. And, yet, we all know that 535 Members of the Congress cannot each have his or her own way on every issue.

But the people who are retiring are essentially people who are very good legislators because they understand the art of politics; the necessity for compromise. And I call them "bridge builders"—because they don't let stand between them differences in philosophies and personalities. As the U.S. Senate has become more ideological and more entrenched in hard core ideas, where name calling somehow or other has become the substitute for ideas, we need bridge builders.

DAVID PRYOR was born in Camden, Ouachita County, AR, in 1934 to very devoted parents. All of DAVID's life manifest in his personality and character is the unexcelled upbringing he enjoyed.

He graduated from the University of Arkansas Law School in 1964 with an LLB degree, went home to his native Camden and established a newspaper called the Ouachita Citizen that he operated for 4 years. During that period of time he was also elected to the Arkansas State legislature, to the House of Representatives, for three terms—1960, 1962, and 1964.

I remember—I guess it was 1966—when DAVID was elected to the U.S. House of Representatives. It was in 1968 that I met him for the first time, and that was just one of those typical political handshakes. The Democratic Party was having a forum in Little Rock. I had the itch to run for Governor in

1968. Luckily for me I chose not to do it that year. But DAVID PRYOR spoke at this meeting in Little Rock in 1968. And I was absolutely awe-stricken—he was good looking, articulate, and had some very good ideas. And I thought how wonderful it must be to serve in the House of Representatives and be able to come here and say these things for this giant crowd here this evening. And it only piqued my interest in running for office that much more.

So besides my father, who actually encouraged me to go into politics when I was a child, DAVID was my next inspiration because of that evening in Little Rock in 1968.

After losing a race for the Senate in 1972, he came back in 1974 and ran for Governor and won handily, and served our State for 4 years. That was two terms, then, 2-year terms. He served our State admirably.

He became then, and has remained ever since, the most popular politician in Arkansas by far. I said the other evening, and I have said it many times, it pains me to say that. The thing that makes it bearable is I know it is true. Everybody in our State, virtually everybody, loves DAVID PRYOR, as does virtually every Member of the U.S. Senate.

In all of the years that DAVID has been in politics, and certainly all the years he has been in Congress, I have never heard anybody accuse him of having Potomac fever, and the reason he is easily the most popular politician in Arkansas is because he has never lost that common touch of letting people know that he is concerned about them. He never looks past you to see who is next in line. You get his undivided attention, no matter how crazy the idea might be. DAVID PRYOR has always been a listener.

I read a book one time called, "Lee, The Last Years." It is the story of Robert E. Lee after the war, written by a man named Charles Bracelen Flood. And the most poignant part of the book was a description of Lee after he surrendered to Grant at Appomattox. He then got on his horse Traveler and, with a small entourage of Confederate officers and men, started on roughly a 5-day trek from Appomattox Courthouse to Richmond, where a home had been prepared for him.

As they went through various southern villages and communities, huge crowds lined the streets awaiting for hours the arrival of Lee and his entourage—rebel yells, unbelievable cheers, of people for this losing General.

About the third day of this trek toward Richmond, Lee stopped at a point where a battle had been fought and there were still rotting corpses on the battlefield. He got off his horse and he waved his arm toward the battlefield and he said, "This could have been avoided." And the rest of what he said I paraphrase, but it was essentially this: At the time when this Nation needed men of courage and vision and restraint, we had politicians who saw that it was to their advantage to foment the flames of war. And this is the result.

James Fallows has written a book called "Breaking the News: How the Media Undermines American Democracy." It is a very interesting and almost unassailable hypothesis, in this book. But I can tell you, democracy always hangs by a thread. And here we have a man like DAVID PRYOR, who has all the qualities that Robert E. Lee described, and more: tenacious, determined on what he believes, intellect, the character to stick with his ideas in a totally honest way, and vision about where the country ought to be heading. These are remarkable traits to be wrapped up in one man, and rare and unusual in the U.S. Congress. So, at a time when democracy perhaps hangs by a more slender thread than ever, losing a man like DAVID PRYOR, who possesses those qualities, is just short of disastrous for the country and certainly, to me, as a friend and colleague.

In the years I have served with DAVID, almost 18 years, now, I have never seen him duck a tough vote, though there have been plenty of opportunities. He has always been able and willing to take the heat in order to cast those votes.

When DAVID came to the Senate he had been Governor 4 years, but we really did not know each other. We knew each other politically, and we would see each other at political events, and we were friends. But it was only after he came to the Senate that we developed a friendship in the truest meaning of the word. So, I have been close to him in a lot of his travail. I can tell you, I do not know of very many people who have suffered in their personal life as much as DAVID—really, terribly traumatic things. Despite all of that, including the current trauma, I have never seen him down. I have never seen him look for sympathy or indicate that he was looking for sympathy.

I remember when my wife, Betty—and I do not mind saying this now, because it was about 15 years ago—was diagnosed with cancer. It was a dicey situation. She was going to be operated on at Georgetown at 8:30 in the morning. I got there at 8, and DAVID was already there. I guess that morning was the sealing of this, what will now be a lifelong friendship.

During his entire adult life since he graduated law school, he and Barbara have undergone these traumatic experiences together. She has been by his side. I have watched her. I have watched her strength. I have watched her values sustain her and DAVID both. And in all fairness, she has never been shy about expressing her thoughts and ideas with her beloved husband, DAVID.

Then, of course, it has been a love affair. I know that DAVID never loved anybody else from the day he set eyes on Barbara Lunsford and they have both been tremendous parents to three very fine sons—they are so proud of them, and justifiably.

While I am senior by 4 years to DAVID PRYOR in the U.S. Senate, he has been my mentor, my consultant, and my best friend. I will miss him and I wish him Godspeed and good luck.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FAMILY AND MEDICAL LEAVE ACT

Mr. BROWN. Mr. President, I had the pleasure earlier today of listening to the distinguished Senator from Connecticut talk about the Family Leave Act. He talked in very laudatory terms of the many positive changes that it has brought about.

Mr. President, I also want to voice a positive response to the fact that employers do provide family leave, a time to be with their family and loved ones at a time that is important, during medical emergencies. But, Mr. President, I think it would be a shame to allow the subject to pass without observing what the real issue was.

The real issue in the Family and Medical Leave Act was not that people should have time with their families. Of course they should. Many employers provided that before the act was in place. Certainly I believe, within the possibilities of jobs—not all jobs have flexibility—but within the possibilities of the jobs involved, that certainly should be the case in terms of company policy.

But, Mr. President, with all due respect to the distinguished Senator from Connecticut, he just doesn't get it. One of the tragedies, I think, of our system as it developed is that our legislative bodies are populated by people who have not had the experience of real work in the private sector. They have not had an opportunity to be involved in business and understand what is involved when you have an essential function that has to be done and someone is not there.

Perhaps most of all, Mr. President, many, unfortunately, do not understand what they have done to our country in the last few years by flooding it, inundating it with regulations and rules and laws.

I think of it in terms of the company that I used to work for. When I was corporate counsel, it was myself and a part-time assistant secretary. Right now, that same function, with similar

responsibilities, is composed of four full-time attorneys, three legal assistants, and a backup division of more than 120 people. Do they do a better job than I did? Yes; I suspect they do.

But, Mr. President, what has happened is an explosion of regulation. The problem is not whether or not people should have family medical leave. The problem is whether or not the Federal Government ought to dictate the minute details of how jobs are run in this country, how things operate in this country.

The question is not whether or not we have an economy that is flexible and variable or whether or not we divert the resources of this country to micromanage things from the top; the question, with all due respect to those who worked so hard on that piece of legislation, is not whether or not you have family or medical leave. Of course you ought to have it. The question is whether or not you have a Government, a Federal Government, that sees its responsibility as one of centralizing control of the Nation, one of mandating and dictating the details of how we live our daily lives.

It may come as a surprise to some, but most Americans are pretty good at knowing what is good for them. They might even know better than those of us in Washington who so often tell them what to do.

RECESS

Mr. BROWN. Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 2:15 today.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in recess until 2:15.

There being no objection, at 12:23 p.m., the Senate recessed until 2:14; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

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

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

MORNING BUSINESS

Mr. COHEN. Mr. President, I ask unanimous consent that the Senate now go into a period of morning business with Members allowed to speak for up to 5 minutes each.

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

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

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

Mr. DORGAN. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senate is in morning business, with Senators allowed to speak for up to 5 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent to be allowed to speak for 10 minutes.

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

The Senator from North Dakota is recognize to speak for 10 minutes.

Mr. DORGAN. Mr. President, I would like to make two points today; one very brief and then I would like to make some remarks, along with my colleague, Senator ASHCROFT, and introduce a piece of legislation.

NO CHANGE IN THE FEDERAL FUNDS RATE

Mr. DORGAN. Mr. President, the first point is that the Federal Reserve Board apparently now has broken up its meeting today and announced that there will be no change in the Federal funds rate—the interest rate that the Federal Reserve sets that has a significant impact on our economy, obviously.

I have been a frequent critic of the Federal Reserve Board. I would say that, if they have decided not to increase interest rates today, I commend them for that decision. I think it is the right decision.

The Federal funds rate is already one-half of 1 percent above where it ought to be historically, given the rate of inflation. There is no justification for an interest rate increase by the Federal Reserve Board. Inflation is under control—well under control—coming down 5 years in a row. Last month there was a one-tenth of 1 percent increase in the Consumer Price Index, virtually no inflation. So there was no basis for the Federal Reserve Board to consider an interest rate increase.

Some have suggested the Fed would meet in secret today if they wanted to, go in the room, shut the door, and make the decision in secret, and it would in effect increase interest rates today in order to respond to what they consider to be the need in the marketplace. But the Fed apparently decided not to do so. Again, I want to say that I think that is the right decision for this country, and for our economy because they ought not fight a foe that does not exist with remedy that is inappropriate. That is what they would have done, if they had increased interest rates today.

I found it interesting the other day that the Washington Post had a story saying the FBI has been called out to find out who leaked information at the Fed about what the regional Fed bank presidents have recommended with respect to interest rates. I would much sooner see the FBI called out to find out who withheld information from the American people, and what they talk about is the incredible secrecy of this institution called the Federal Reserve Board. Would it not be nice if everyone could have all the information about how and when they make decisions about monetary policy instead of calling the FBI out to find out who leaked information so the American people have some knowledge about who was recommending what on interest rate policies?

Mr. President, thank you. That is therapy for me to get that off my chest this early after the Federal Reserve Board met and apparently made the right decision. There is an old saying. "Even the stopped clock is right twice a day." I will not compare the Fed to a stopped clock, but at least to say that the Fed is right on interest rates. They did not change the rate. There was no justification in making a change, and they should not have made a change.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN and Mr. ASHCROFT pertaining to the introduction of S. 2108 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

PARTIAL-BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I think it is appropriate, as a result of the comments of the Senator from North Dakota and the Senator from Missouri, to talk about another issue that deals with the issue of life, an issue that will be before us in a very short few days. That is the issue of partial-birth abortions.

I took to the floor on Friday afternoon when this place was pretty empty to talk about the issue of partial-birth abortions. I said at that time that while the term "partial-birth abortion" is used, this is not a pro-life or pro-choice issue. This is not whether you are for or against abortion. This debate should be limited, must be limited to the procedure that we are discussing, and that is the procedure called partial-birth abortions.

I said at that time that I thought we should have a good debate, that the Senate, being the greatest deliberative body in the history of the world, should live up to its moniker, that we should have a deliberate, thoughtful debate on

facts. I felt if we did have such a debate here, if we had such a deliberate, thoughtful debate, that, in fact, people who may have voted one way the last time, when presented with all the facts, in reexamining all the information that has come to light since the original vote in the Senate, might feel compelled to vote for this bill and override the President's veto.

I read an article today in the Washington Post that gave me some hope that people who consider themselves to be pro-choice can take a good look at the facts and change their mind on this procedure, this gruesome procedure. What gave me heart was an article published today in the Washington Post by Richard Cohen. Richard Cohen is a columnist who proclaims himself to be, and has consistently been, pro-choice. He believes in the woman's right to choose—in fact, in this article so states again.

Mr. Cohen, back in June of last year, wrote an article that condemned the bill.

In fact, it says, "In Defense of Late-Term Abortions," Tuesday, June 20, 1995, the Washington Post.

He goes on to give his reasons why he believes that partial-birth abortions should continue to be legal in this country.

Fast forward to today an article by Richard Cohen: "A New Look at Late-Term Abortion":

A rigid refusal even to consider society's interest in the matter endangers abortion rights.

He writes this article from the perspective of someone who is a defender of abortion rights, someone who still believes in a woman's right to choose, using his terms.

I ask unanimous consent to have this article printed in the RECORD.

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

A NEW LOOK AT LATE-TERM ABORTION—A RIGID REFUSAL EVEN TO CONSIDER SOCIETY'S INTEREST IN THE MATTER ENDANGERS ABORTION RIGHTS

(By Richard Cohen)

Back in June, I interviewed a woman—a rabbi, as it happens—who had one of those late-term abortions that Congress would have outlawed last spring had not President Clinton vetoed the bill. My reason for interviewing the rabbi was patently obvious: Here was a mature, ethical and religious woman who, because her fetus was deformed, concluded in her 17th week that she had no choice other than terminate her pregnancy. Who was the government to second-guess her?

Now, though, I must second-guess my own column—although not the rabbi and not her husband (also a rabbi). Her abortion back in 1984 seemed justifiable to me last June, and it does to me now. But back then I also was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed. I was wrong.

I didn't know it at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote the "just four one-hundredths of one percent of abortions are performed after 24 weeks" and that "most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger."

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keep figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: "These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not."

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a bit late with their pregnancy, then the word "choice" has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

It's true, of course, that many opponents of what are often called "partial-birth abortions" are opposed to any abortions whatever. And it also is true that many of them hope to use popular repugnance over late-term abortions as a foot in the door. First these, then others and then still others. This is the argument made by pro-choice groups: Give the antiabortion forces this one inch, and they'll take the next mile.

It is instructive to look at two other issues: gun control and welfare. The gun lobby also thinks that if it gives in just a little, its enemies will have it by the throat. That explains such public relations disasters as the fight to retain assault rifles. It also explains why the National Rifle Association has such an image problem. Sometimes it seems just plain nuts.

Welfare is another area where the indefensible was defended for so long that popular support for the program evaporated. In the 1960s, '70s and even later, it was almost impossible to get welfare advocates to concede that cheating was a problem and that welfare just might be financing generation after generation of households where no one works. This year, the program on the federal level was trashed. It had few defenders.

This must not happen with abortion. A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—what seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. SANTORUM. Mr. President, I will not read the entire article, but it is in the RECORD, and I do not think what I do read, which is most of the article, takes away from the meaning.

He mentioned a case in his previous article in June of a woman who had an abortion and used that sort of to justify late-term abortions and particularly the partial-birth abortion procedure. He revisits that in the beginning of the article and says he still agreed this woman who did not have a partial-birth abortion but had a late-term abortion, was right to do so. But he said, "What seemed justifiable to me last June, does not now."

He said:

I was led to believe that these late-term abortions were extremely rare and performed only when the life of the mother was in danger or the fetus irreparably deformed.

You heard in the House of Representatives last week when they were debating this issue and you will hear over and over again from the advocates of partial-birth abortions that this is only done in extreme medical emergencies when fetuses have no chance of survival outside of the womb and that they are done very rarely.

Mr. Cohen says:

I was wrong. I didn't know at the time, of course, and maybe the people who supplied my data, the usual pro-choice groups * * *

The PRESIDING OFFICER. The Chair informs the Senator from Pennsylvania that the 5 minutes have expired.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

Mrs. BOXER. Reserving the right to object, I ask my colleague, since I want to respond to some of what he said and I do not have that much time and we are under a 5-minute rule, if he can complete in 2, and then I can make my 5-minute remarks, because I cannot stay to hear the rest of my friend's remarks. So if he can complete in 2 minutes.

Mr. SANTORUM. I ask unanimous consent that the Senator from California speak for 5 minutes, and I will just continue from there.

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

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mrs. BOXER. Mr. President, I came to the floor today because I listened to the Senator's presentation, and I think it is very interesting. We have had a number of high-profile men comment on this particular vote that is coming up, and my colleague from Pennsylvania goes at length into the remarks of a columnist.

I think it is very important to listen to the women who were told that if

they didn't have this particular procedure that my colleague wants to outlaw they could die, they could be made permanently infertile, they could be paralyzed for life, these women who have come to our offices to beg us to stay out of the emergency room, to stay out of the surgical room, to support the President's veto of this extreme bill.

Why do I call it extreme? I call it extreme because this bill would ban the procedure, regardless of the circumstance. It has a narrow exception, and I have it here: "* * * to save the life of a mother whose life is endangered by a physical disorder, illness or injury, provided that no other medical procedure would suffice."

This is the first time in history that the people who oppose abortion have made such a narrow life exception. The Hyde amendment simply says we can outlaw the procedure except "to save the life of the mother" if the pregnancy is carried to term.

This life exception is so narrow in this bill that a physician could only use this life-saving procedure if the woman had a preexisting condition such as diabetes, but not if he believed carrying the pregnancy forward or a Caesarean section or other methods would, in fact, endanger her life.

If a physician does choose to use this procedure, even in the situation of a preexisting condition of the woman, this physician could be hauled into court and have to provide a defense for himself.

I say to my friends, if this debate was really about outlawing this procedure, we could pass this bill in 1 minute. Every one of us who voted for the amendment that I offered, which simply said make an exception for the health and life of the mother—and we did not even leave it open-ended; we said serious adverse health risk—we were willing to ban this procedure, every one of us who voted against this bill, if it had a true life exception and if, in fact, it had a health exception tightly drawn so that if a woman was told, "You may not bear another child again unless you have this procedure," or "You may be paralyzed for life unless you have this procedure," or, "You could even die if that procedure goes forward in those cases," we would all vote together.

If the people who stand up here and quote columnists would come together with us, we could craft a bill in a minute that would, in fact, outlaw this procedure, except if the woman's life was threatened if the pregnancy was carried to term or she had severe health consequences facing her family. We could pass that 100 to nothing. But we don't have that before us today, because those on the other side would rather have a political hot-potato issue again.

It is sad. We can outlaw this procedure today with an exception for life of the mother or serious health impacts, but, no, better to make the President have to explain it. And let me tell you, he is explaining it.

I ask unanimous consent to have printed in the RECORD a letter dated September 23 that he has sent to us.

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

THE WHITE HOUSE,
Washington, DC, September 23, 1996.

Hon. THOMAS A. DASCHLE,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to urge that you vote to uphold my veto of H.R. 1833, a bill banning so-called partial-birth abortions. My views on this legislation have been widely misrepresented, so I would like to take a moment to state my position clearly.

First, I am against late-term abortions and have long opposed them, except, as the Supreme Court requires, where necessary to protect the life or health of the mother. As Governor or Arkansas, I signed into law a bill that barred third trimester abortions, with an appropriate exception for life or health. I would sign a bill to do the same thing at the federal level if it were presented to me.

The procedure aimed at in H.R. 1833 poses a difficult and disturbing issue. Initially, I anticipated that I would support the bill. But after I studied the matter and learned more about it, I came to believe that it should be permitted as a last resort when doctors judge it necessary to save a woman's life or to avert serious consequences to her health.

In April, I was joined in the White House by five women who were devastated to learn that their babies had fatal conditions. These women wanted anything other than an abortion, but were advised by their doctors that this procedure was their best chance to avert the risk of death or grave harm, including, in some cases, an inability to bear children. These women gave moving testimony. For them, this was not about choice. Their babies were certain to perish before, during or shortly after birth. The only question was how much grave damage the women were going to suffer. One of them described the serious risks to her health that she faced, including the possibility of hemorrhaging, a ruptured cervix and loss of her ability to bear children in the future. She talked of her predicament:

"Our little boy had . . . hydrocephaly. All the doctors told us there was no hope. We asked about in utero surgery, about shunts to remove the fluid, but there was absolutely nothing we could do. I cannot express the pain we still feel. This was our precious little baby, and he was being taken from us before we even had him. This was not our choice, for not only was our son going to die, but the complications of the pregnancy put my health in danger, as well."

Some have raised the question whether this procedure is ever most appropriate as a matter of medical practice. The best answer comes from the medical community, which believes that, in those rare cases where a woman's serious health interests are at stake, the decision of whether to use the procedure should be left to the best exercise of their medical judgment.

The problem with H.R. 1833 is that it provides an exception to the ban on this procedure *only* when a doctor is convinced that a woman's life is at risk, but not when the doctor believes she faces real, grave risks to her health.

Let me be clear. I do not contend that this procedure, today, is always used in circumstances that meet my standard. The procedure may well be used in situations where a woman's serious health interests are not at risk. But I do not support such uses, I do not defend them, and I would sign appropriate legislation banning them.

At the same time, I cannot and will not accept a ban on this procedure in those cases where it represents the best hope for a woman to avoid serious risks to her health.

I also understand that many who support this bill believe that a health exception could be stretched to cover almost anything, such as emotional stress, financial hardship or inconvenience. That is *not* the kind of exception I support. I support an exception that takes effect *only* where a woman faces real, serious risks to her health. Some have cited cases where fraudulent health reasons are relied upon as an excuse—excuses I could never condone. But people of good faith must recognize that there are also cases where the health risks facing a woman are deadly serious and real. It is in those cases that I believe an exception to the general ban on the procedure should be allowed.

Further, I reject the view of those who say it is impossible to draft a bill imposing real, stringent limits on the use of this procedure—a bill making crystal clear that the procedure may be used only in cases where a woman risks death or serious damage to her health, and in no other case. Working in a bipartisan manner, Congress could fashion such a bill.

That is why I asked Congress, by letter dated February 28 and in my veto message, to add a limited exemption for the small number of compelling cases where use of the procedure is necessary to avoid serious health consequences. As I have said before, if Congress produced a bill with such an exemption, I would sign it.

In short, I do not support the use of this procedure on demand or on the strength of mild or fraudulent health complaints. But I do believe that it is wrong to abandon women, like the women I spoke with, whose doctors advise them that they need the procedure to avoid serious injury. That, in my judgment, would be the true inhumanity. Accordingly, I urge that you vote to uphold my veto of H.R. 1833.

I continue to hope that a solution can be reached on this painful issue. But enacting H.R. 1833 would not be that solution.

Sincerely,

BILL CLINTON.

Mrs. BOXER. Mr. President, in this letter, the President says that he would sign such a bill that outlawed this procedure with those humane exceptions.

So, Mr. President, as we approach this vote, I am going to be on this floor as often as I can, and I hope others will, to make the offer to my friends on the other side.

The PRESIDING OFFICER. The Chair informs the Senator from California that the 5 minutes under morning business have expired.

Mrs. BOXER. Mr. President, let's ban this procedure except for life of the mother or serious health impact.

Thank you very much, Mr. President.

(Disturbance in the galleries.)

The PRESIDING OFFICER. The Chair reminds the galleries that applause is not appropriate.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, as I was saying, quoting Mr. COHEN:

I didn't know at the time—

Mr. COHEN, who, again, previously wrote that he was in favor of allowing this procedure to be legal, says:

I didn't know at the time, of course, and maybe the people who supplied my data—the usual pro-choice groups—were giving me what they thought was precise information. And precise I was. I wrote that "just four one-hundredths of one percent of abortions are performed after 24 weeks" and that "most, if not all, are performed because the fetus is found to be severely damaged or because the life of the mother is clearly in danger."

It turns out, though, that no one really knows what percentage of abortions are late-term. No one keeps figures. But my Washington Post colleague David Brown looked behind the purported figures and the purported rationale for these abortions and found something other than medical crises of one sort or another. After interviewing doctors who performed late-term abortions and surveying the literature, Brown—a physician himself—wrote: "These doctors say that while a significant number of their patients have late-term abortions for medical reasons, many others—perhaps the majority—do not.

Brown's findings brought me up short. If, in fact, most women seeking late-term abortions have just come to grips a little bit late with their pregnancy, then the word "choice" has been stretched past a reasonable point. I realize that many of these women are dazed teenagers or rape victims and that their anguish is real and their decision probably not capricious. But I know, too, that the fetus being destroyed fits my personal definition of life. A 3-inch embryo (under 12 weeks) is one thing; but a nearly fully formed infant is something else.

He goes on to say:

A woman really ought to have the right to choose. But society has certain rights, too, and one of them is to insist that late-term abortions—[which] seems pretty close to infanticide—are severely restricted, limited to women whose health is on the line or who are carrying severely deformed fetuses. In the latter stages of pregnancy, the word abortion does not quite suffice; we are talking about the killing of the fetus—and, too often, not for any urgent medical reason.

President Clinton, apparently as misinformed as I was about late-term abortions, now ought to look at the new data. So should the Senate, which has been expected to sustain the president's veto. Late-term abortions once seemed to be the choice of women who, really, had no other choice. The facts now are different. If that's the case, then so should be the law.

Mr. President, what Mr. Cohen talks about is the fact that late-term abortions are not as rare as some would suggest, and that partial-birth abortions are not as rare.

The Senator from California said that we should not get involved in the emergency room. The Senator from California knows that the partial-birth abortion procedure is not an emergency procedure. It is a 3-day procedure. It takes 3 days from the time the woman presents herself to the abortionist to the time that the abortion is completed. So it can never be used in an emergency.

She also said, well, if we only had an exception for the health of the mother. The Senator from California, who debates this issue on the floor a lot, knows fully well, that health of the mother has been interpreted by courts over and over and over again to include virtually everything. When I say that, what do I mean? Yes, it includes physical health, but it includes mental health, financial health, social health, any kind of health impact. That is a limitation without limit.

There is no limitation when we put in there health of the mother. And that is exactly what she wants to accomplish. That is exactly what she wants to accomplish. She does not want to limit this procedure, or any other abortion procedure, at any time during the pregnancy for any reason. I respect her opinion. I just do not agree with it. I do not think the Members of the Senate agree with that. There is new evidence out. I hope that my colleagues—and the Senator from California made it sound like this was a pro-life/pro-choice issue. I can give her a laundry list. She knows them well, and that many people who are pro-choice here in the Senate and in the House voted for this bill to outlaw this procedure.

Why? Because this crosses the line. This goes too far. You have a person here who, in very strong terms in this article, talks about how adamantly pro-choice he is; and he in fact writes the reason we should draw the line here is because if you do not draw the line, you endanger a woman's right to choose generally because of the extremism of this position.

I do not think the Senate should go down in history as that body that allowed infanticide to continue, as so described, not only by Mr. Cohen, but by the former Surgeon General, C. Everett Koop and the Pope, and many others. Senator MOYNIHAN, others—Senator MOYNIHAN, I say to Senator BOXER, is not adamantly pro-life by any stretch of the imagination, and has said this looks perilously close to infanticide.

How often does this procedure take place? Again, let us look at all the information that we have gathered since the original vote in the Senate. This is The Sunday Record in Bergen County, NJ, September 15, 1996, just a few days ago, an article, "The facts on partial-birth abortion."

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

THE FACTS ON PARTIAL-BIRTH ABORTION—BOTH SIDES HAVE MISLED THE PUBLIC

(By Ruth Pabawer)

Even by the highly emotional standards of the abortion debate, the rhetoric on so-called "partial-birth" abortions has been exceptionally intense. But while indignation has been abundant, facts have not.

Pro-choice activists categorically insist that only 500 of the 1.5 million abortions performed each year, in this country involve the partial-birth method, in which a live fetus is pulled partway into the birth canal before it is aborted. They also contend that the procedure is reserved for pregnancies gone tragically awry, when the mother's life or health is endangered, or when the fetus is so defective that it won't survive after birth anyway.

The pro-choice claim has been passed on without question in several leading newspapers and by prominent commentators and politicians, including President Clinton.

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a "minuscule amount" are for medical reasons.

Within two weeks, Congress is expected to decide whether to criminalize the procedure. The vote must override Clinton's recent veto. In anticipation of that showdown, lobbyists from both camps have orchestrated aggressive campaigns long on rhetoric and short on accuracy.

For their part, abortion foes have implied that the method is often used on healthy, full-term fetuses, an almost-born baby delivered whole. In the three years since they began their campaign against the procedure, they have distributed more than 9 million brochures graphically describing how doctors "deliver" the fetus except for its head, then puncture the back of the neck and aspirate brain tissue until the skull collapses and slips through the cervix—an image that prompted even pro-choice Sen. Daniel P. Moynihan, D-N.Y., to call it "just too close to infanticide."

But the vast majority of partial-birth abortions are not performed on almost-born babies. They occur in the middle of the second trimester, when the fetus is too young to survive outside the womb.

The reason for the fervor over partial birth is plain: The bill marks the first time the House has ever voted to criminalize the abortion procedure since the landmark Roe v. Wade ruling. Both sides know an override could open the door to more severe abortion restrictions, a thought that comforts one side and horrifies the other.

HOW OFTEN IT'S DONE

No one keeps statistics on how many partial-birth abortions are done, but pro-choice advocates have argued that intact "dilation and evacuation"—a common name for the method, for which no standard medical term exists—is very rare, "an obstetrical non-entity," as one put it. And indeed, less than 1.5 percent of abortions occur after 20 weeks gestation, the earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York, a respected source of data on reproductive health.

The National Abortion Federation, the professional association of abortion providers and the source of data and case histories for this pro-choice fight, estimates that the number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says "450 to 800" are done annually.

But those estimates are belied by reports from abortion providers who use the method.

Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the state Board of Medical Examiners, which governs physicians' practice.

The physicians' estimate jibe with state figures from the federal Centers for Disease Control, which collects data on the number of abortions performed.

"I always try an intact D&E first," said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn't breech, or if the cervix isn't dilated enough, providers switch to traditional, or "classic," D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 250 post-20-week abortions a year, of which half are by intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. "I do an intact D&E whenever I can, because it's far safer," he said.

The National Abortion Federation said 40 of its 300 member clinics perform abortions as late as 26 weeks, and although no one knows how many of them rely on intact D&E, the number performed nationwide is clearly more than the 500 estimated by pro-choice groups like the federation.

The federation's executive director, Vicki Saporta, said the group drew its 500-abortion estimate from the two doctors best known for using intact D&E, Dr. Martin Haskell in Ohio, who Saporta said does about 125 a year, and Dr. James McMahon in California, who did about 375 annually and has since died. Saporta said the federation has heard of more and more doctors using intact D&E, but never revised its estimate, figuring those doctors just picked up the slack following McMahon's death.

"We've made umpteen phone calls [to find intact D&E practioners]," said Saporta, who said she was surprised by The Record's findings. "We've been looking for spokespeople on this issue. . . . People do not want to come forward [to us] because they're concerned they'll become targets of violence and harassment."

WHEN IT'S DONE

The pro-choice camp is not the only one promulgating misleading information. A key component of The National Right to Life Committee's campaign against the procedure is a widely distributed illustration of a well-formed fetus being aborted by the partial-birth method. The committee's literature calls the aborted fetuses "babies" and asserts that the partial-birth method has "often been performed" in the third trimester.

The National Right to Life Committee and the National Conference of Catholic Bishops have highlighted cases in which the procedure has been performed well into the third trimester, and overlaid that on instances in which women have had less-than-compelling reasons for abortion. In a full-page ad in the Washington Post in March, the bishops' conference illustrated the procedure and said, women would use it for reasons as frivolous ad "hates being fat," "can't afford a baby and a new car," and "won't fit in to prom dress."

"We were very concerned that if partial-birth abortion were allowed to continue, you could kill not just an unborn, but a mostly born. And that's not far from legitimizing actual infanticide," said Helen Alvare, the bishops' spokeswoman.

Forty-one states restrict third-trimester abortions, and even states that don't—such as New Jersey—may have no physicians or hospitals willing to do them for any reason. Metropolitan Medical's staff won't do abortions after 24 weeks of gestation. "The nurses would stage a war," said a provider there. "The law is one thing. Real life is something else."

In reality, only about 600—or 0.04 percent—of abortions of any type are performed after 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedures say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, "Even if our drawings did show a more developed baby, that would be defensible because 30-week fetuses have been aborted frequently by this method, and many of those were not flawed, even by an expansive definition.

WHY IT'S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1995, the Planned Parenthood Federation of America issued a press release asserting that the procedure "is extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality."

In February, the National Abortion Federation issued a release saying, "This procedure is most often performed when women discover late in wanted pregnancies that they are carrying fetuses with anomalies incompatible with life."

Clinton offered the same massage when he vetoed the Partial-Birth Abortion Ban Act in April, and surrounded himself with women who had wrenching testimony about why they needed abortions. One was an anti-abortion marcher whose health was compromised by her 7-month-old fetus neuromuscular disorder.

The woman, Coreen Costello, wanted desperately to give birth naturally, even knowing her child would not survive. But because the fetus was paralyzed, her doctors told her a live vaginal delivery was impossible. Costello had two options, they said: abortion or a type of Caesarean section that might ruin her chances of ever having another child. She chose an intact D&E.

But most intact D&E cases are not like Coreen Costello's. Although many third-trimester abortions are for heart-wrenching medical reasons, most intact D&E patients have their abortions in the middle of the second trimester. And unlike Coreen Costello, they have no medical reason for termination.

"We have an occasional amnio-abnormality, but it's a minuscule amount," said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there: "Most are Medicaid patients black and white, and most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

The physician who teaches said: "In my private practice, 90 to 95 percent are medically indicated. Three of them today are Trisomy-21 [Down syndrome] with heart * * *, the mother has brain cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated."

Even the Abortion Federation's two prominent providers of intact D&E have showed documents that publicly contradict the federation's claims.

In a 1992 presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were "purely elective."

The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing "depression" as the most common maternal reason for his late-term non-elective abortions, and listing "cleft lip" several times as the fetal indication. Saporta said 85 percent of McMahon's abortions were for severe medical reasons.

Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical need. Thus, even if they were the only two doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Asked about the disparity, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly third-trimester abortions. Besides; Saporta said, "When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and get an abortion even if she and the fetus are healthy." Saporta said that claim is not true. "That has been their focus, and been playing defenses ever since."

WHERE LOBBYING HAS LEFT US

Doctors who rely on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

"Look, abortion is abortion. Does it really matter if the fetus dies in utero or when half of it's already out?" said one of the * * * method at Metropolitan Medical in Englewood. * * * what's safest for the woman," and this procedure, he said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bones and destructive instruments, one reasons the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foes have drawn so much attention to. That's true, physicians say, but it ducks the broader issue.

By highlighting the tragic Coreen Costellos, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 4½ to 6 months pregnant with a less compelling reason—but still a legal right—to abort.

That strategy is no surprise, given Americans queasiness about later-term abortions. Why reargue the morality of or the right to a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

To get around the bill, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then "delivering" it dead after 12 to 48 hours of painful labor. That method is clearly more dangerous, and if it doesn't work, the patient must have a Caesarean section, major surgery with far more risks.

Ironically, the most likely response to the ban is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, prochoice advocates now wonder how safe from attack that is, now that abortion foes have American's attention.

Congress is expected to call for the override vote this week or next, once again turning up the heat on Clinton barely seven weeks from the election.

Legislative observers from both camps predict that the vote in the House will be close. If the override suceeds—a two-thirds majority is required—the measure will be sent to the Senate, where the override is less likely, given that the initial bill passed by 54 to 44.

. . .

Mr. SANTORUM. Mr. President, let me, if I can, just quote from some of the article as to the facts that were uncovered.

You heard Mr. Cohen reference Dr. Brown in his work with the Washington Post finding out about more of these procedures being performed in more late-term abortion procedures being done in this country. Let me share with you this analysis done by a Ruth Padawer, who is the health reporter for the newspaper. She talks about how the prochoice people say that this is a very rare procedure. I quote:

But interviews with physicians who use the method reveal that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year—three times the supposed national rate. Moreover, doctors say only a "minuscule amount" are for medical reasons.

What are we talking about here? We are talking about abortions performed—I know this is an uncomfortable topic for many people to listen to, and I am sure some people are tuning out and turning off. But this is going on in this country. We have an obligation to face up to who we are and what we are doing here, and not turn our backs because it is just not proper dinner conversation.

We are performing abortions in this country on babies, fully formed babies in their third trimester, and viable babies who are in the late second. I am talking about 22, 23, 24 weeks, the second trimester.

As I said on Friday, my wife is a neonatal intensive care nurse. She took care of 22-week-olds and 21-week-olds and 24-week-olds in Pittsburgh at Magee Woman's Hospital. She has told me story after story of how many of them have survived and how the percentages are increasing.

We are talking about delivering these babies, for no medical reason, feet first through the birth canal, and then kill, by taking a pair of metzenbaum scissors and shoving them into the base of the skull, inserting the catheter into the brain and sucking the brains out to kill the baby, and then deliver the head. And 1,500 times, according to this article, it happens in New Jersey alone every year. The facts, as presented by those who argued against the bill, the facts they quoted from reputable sources, were only a few hundred in the country done every year.

The article goes on:

But those estimates are belied by reports from abortion providers who use the method. Doctors at Metropolitan Medical Center in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by partial-birth abortions.

"I always try an intact D&E (which is the medical term for partial-birth abortion) first," said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity.

Another metropolitan area doctor who works outside New Jersey said he does about 260 post 20-week abortions a year, of which half are partial-birth abortions.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. SANTORUM. Mr. President, I ask unanimous consent for 5 additional minutes.

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

Mr. SANTORUM. Thank you, Mr. President.

The doctor, who is also a professor at two prestigious teaching hospitals, said he has been teaching intact D&E partial-birth abortions since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure.

In fact, he says, "I do an intact D&E whenever I can * * *"

This is not a rare procedure. This is a procedure that is done all too frequently in this country. Those were not presented to this Senate when it deliberated on this bill the first time. Those facts were somehow not researched well by the prochoice groups, like the Guttmacher Institute that provided us the statistics we were using in the first place, because there is no, as Mr. Cohen said, national record keeping of this. There is no agency in Government that keeps track of this. We only have to go by the people who provide the abortions to tell us what they do. And of course—I shouldn't say "of course"—but what has happened, in fact, is that they provided us a number that is not anywhere close to the numbers that really go on in this country.

I would suggest that if they were so cavalier with their numbers as to how many, how cavalier are they with other facts associated with this issue? The fact of the matter is, this is not a prolife/prochoice issue. This is an issue about how far we will go as a country, how far we have gone in blurring the lines.

I asked the question to a person the other day on the Fox Morning News when I was on last week—I will ask it to the Senator from California, if she would answer—and that is, if we had a 24-week baby or 25-week or 26-week baby delivered, normal baby, healthy fetus, that someone just decided, as these articles indicate, they wanted to have a late-term abortion because they just did not get around to it sooner, or they had a change of heart, if that baby were pulled through the birth canal, feet first, and delivered, everything except for the head, and by some mistake of the doctor, the baby's head also was delivered, instead of the doctor, as has been testified before having to hold the baby's head in so he can puncture the skull and suction the brains, if the doctor let the baby's head slip out, I ask the Senator from California, if that baby's head slipped out and that baby was born, would the doctor and the mother have a right to choose whether that baby should live? Would the doctor be able to kill the baby at that point?

I am happy to yield time to the Senator from California if the Senator would like to answer that question. Would the doctor be permitted at that point to kill the baby?

Mrs. BOXER. Well, the Senator clearly does not understand the Supreme Court decision of Roe versus Wade, which I strongly support, and I daresay the majority of Senators and the majority of the American people support. That is, a woman has the right to choose in the first trimester, and after that the State comes in with strong and strict controls. A woman does not have an unfettered right to choose after the first trimester. The Senator should know that and should read that case. She does not, except if her life is threatened.

I would assume, frankly, since the Republican platform does not even have a like exception——

Mr. SANTORUM. I reclaim my time. I would like an answer. If I can, let me restate the question again, based on the information that has been read here and the facts that have been provided.

You have the former Surgeon General of the United States who says this procedure is never medically necessary. You have an article that I will be reading from later, from a series, a group of gynecologists and obstetricians that say partial-birth abortion is bad medicine.

You have some organizations who support—I think the American College of Gynecologists opposes the legislation, but not because they support partial-birth abortions. They do not recognize that as proper medical procedure. They do not like any criminalization of anything. They do not like to have doctors be subject to any kind of criminal

complaints. That is why they are opposed to it. That is what they said in their letter to Congress.

We should focus on the question. The fact of the matter is, we have sufficient evidence here that these are not medically necessary abortions. They are not to save the life of the mother. In fact, we have a provision in our bill, as the Senator knows, to make an exception for the life of the mother. They are not medically necessary. It is for the health of the mother. You have physician after physician after physician saying so. So talk about the facts.

I ask this question—and I know the Senator would like to give a long answer and give a speech—but see if you can answer the question very succinctly.

The PRESIDING OFFICER (Mr. GRAMS). The time of the Senator has expired.

Mr. SANTORUM. I ask unanimous consent for 1 minute.

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

Mr. SANTORUM. If a partial-birth abortion was being performed on this baby, and for some reason the head slipped out and the baby was delivered, which, in my understanding, is not unprecedented, would the doctor, in consultation with the mother, be able to choose to kill the baby?

Mrs. BOXER. I say to my friend that I am going to take 5 minutes to answer his question because it is a very serious question and I intend to answer it in my time, so he can finish up in his time.

Mr. SANTORUM. Mr. President, after the Senator from California speaks, I will talk about the medical necessity for this procedure, and I will cite a group of physicians and other people, other physicians, who have written extensively on the fact that this procedure is never medically indicated. In fact, it is contraindicated. In fact, it is more dangerous to the mother to have one than to do other procedures that are not under the debate here in the Senate.

I will get to that as soon as the Senator answers my question.

Mr. DORGAN. Mr. President, I do not want to interrupt the debate, and I have a different subject I want to comment on.

I ask unanimous consent that if the Senator from California is going to speak for 5 minutes, that I be allowed by unanimous consent to follow the Senator from California for 10 minutes.

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

Mrs. BOXER. I thank my friend from North Dakota because I know he has been patiently waiting to talk about another topic. I was not going to come back to the floor, but I understand that the Senator from Pennsylvania, in what I consider to be a very unfair way, described my position on a woman's right to choose. Now, I would never, never do that for another Senator because this is a crucial issue.

As a mother, as a grandmother, whose grandson is the most precious thing in my life, I do not want to hear that there is another Senator on the floor talking about how I regard pregnancy, motherhood, or childbearing. I would rather have the chance, if someone is going to attack me on an issue, that that person be courageous enough to do it when I am on the floor of the U.S. Senate. So I have come back to the floor to speak.

What I want to say is that the vast majority of Americans believe this entire subject should be left to the privacy of families, to the religious convictions of our people, and that U.S. Senators do not belong in the hospital room, they do not belong in the consulting room, and if the woman is told by a doctor, "You might die unless I use a certain procedure, you might die, and the children you have now will not have a mother," and if that doctor believes this procedure is the only one to save the life of that woman or to spare her a life of infertility or paralysis, I believe families should have the right to make that choice.

If the Senator from Pennsylvania was faced with that choice, if his daughter was in that situation, I really do believe in his heart of hearts if this was not a hot political issue, that he would want the ability, with his God, with his family, to make this decision.

Now, my colleague talks about doctors who say this procedure is not necessary. Some believe it is not. They do not have to use this procedure.

The American College of Obstetricians and Gynecologists, who do this work every day, opposes this legislation that does not have an exception for the life and health of the mother. The American Medical Women's Association opposes this legislation that does not have a true life exception or a health exception. The California Medical Association strongly opposes this extreme legislation.

Now, I just want to put on the record when we are talking about emergency procedures and abortions that take place in late term, this is not about a woman's right to choose. This is about an emergency health situation. My colleagues come here and quote columnists, and on and on. I wish they would look in the eyes of the women in this country who have had this procedure who know because of this procedure they were able to bear children.

I say to my colleagues, I know this is a hard vote, but when the American people understand that the legislation before the Senate has no life exemption, it only says if a woman has a preexisting condition her doctor may use that procedure, and then he will have to defend himself in a courtroom if he does, but it does not have the Hyde language—life-of-the-mother, straightforward—that we have seen in other pieces of legislation. That Hyde exception is not in this bill. That is why some of my colleagues are going to stand against this bill.

Now, the Boxer amendment we put forward said very simply that this procedure can only be used if it can spare a woman's life or if she could suffer long-term, serious, adverse health impacts. Now, does that not sound reasonable? Does that not sound fair?

I say to my colleagues, if they look in their heart and it happened to their wife, and the doctor said, "She will die if I do not use this procedure," not because she has diabetes or a preexisting condition but because the problem with the fetus is so great, if she does not have this procedure she could bleed to death, I say to my colleagues, if they look in their heart, and the doctor looked at them and said, "You could lose your wife unless I use this procedure," they look in their heart and they are honest; or, if the doctor said, "You will never have another baby unless I use this procedure," or she will be paralyzed from the waist down and in a wheelchair for the rest of her life.

I honestly believe—I do believe—my colleagues, that if you take away the 30-second commercials that Americans are going to see in this campaign, you would say to the doctors, "Save my life." And that is all we are asking. All we are asking is only use this procedure if the woman's life is at stake or she would suffer serious adverse health risks if the procedure was not used. I think that is a moderate position. Roe versus Wade does not allow abortions at the end term. The State has a right to regulate it. I hope Senators will not misstate other Senators' positions. It is too important of a debate.

Thank you very much, Mr. President. I yield my time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

WATER ISSUES

Mr. DORGAN. Mr. President, I wish to address a different subject. It has to do with water issues, a subject that will cause some eyes to glaze over perhaps in some quarters, but an important subject to my State.

You know that I come from a small State. I come from the State of North Dakota, which is large in expanse, 10 times the size of Massachusetts, but with 640,000 people. So it is a sparsely populated State.

A lot of people do not know that we have a flood in North Dakota that came and stayed—a permanent flood the size of the State of Rhode Island. It was not an accidental flood. It was a flood that came and stayed in my State because 50 years ago there were some who felt that we should harness the

Missouri and Mississippi Rivers and, as part of the flood control provisions called the Pick-Sloan Act, to harness the Missouri River so that it didn't flood the cities downstream. So that they could have reliable navigation downstream, they decided, "Let us build some dams on the Missouri River." One of those dams was built in North Dakota. President Eisenhower came out to dedicate the dam. It is called the Garrison Dam.

What the Federal Government said then to the State of North Dakota is, in order for us to control flooding downstream and to protect the larger cities downstream, would you please play host to a large flood that comes and stays forever? The people of North Dakota said, why would we want to play host to a large flood that comes to stay, a one-half-million-acre flood forever? The Federal Government says, if you will do that, we will make certain promises to you. We will promise that that dam will be able to generate cheap hydroelectric power, and that will benefit the residents of the region. And, No. 2, more importantly, we will allow you to take the water from behind that dam and move it all around your State for economic and municipal and rural water systems. That will help you develop economically, and it will provide new jobs and new opportunities for your State.

So the people of North Dakota 50 years ago said, "Well, that sounds like a reasonable proposition." And the dam was built and dedicated, as I said, by President Eisenhower in the 1950's. The Garrison diversion project was authorized in 1965 by the Congress. Work began on it, and in the 1970's it became very controversial. In fact, some portions of this project, some features to move water around our State, became so controversial that some of the major environmental organizations in the country decided to try to kill the project altogether. Remember, this is part of a promise that was made to North Dakota that relates very much to its economic opportunity and its economic future.

Recognizing that it was very troublesome to have the opposition of some of these major organizations, I worked to reformulate this project. In 1986 the Congress passed a reformulation act called the Garrison Diversion Reformulation Act. This year, 10 years later, we appropriated $23 million for this project. That brings it to nearly $350 million during the past 10 years since it was reformulated. Now it appears that we will once again be required in the next Congress to make a final revision in this project in order to see its completion for our State.

A substantial amount has been done in North Dakota with this project; $200 million, in what is called an MR&I fund, has been available to North Dakota to move water around the State with a southwest pipeline in southwestern North Dakota. It has improved water quality in many communities in North Dakota.

So we have derived substantial benefit from it. But we have not been able to move Missouri water to the eastern part of North Dakota into the Red River to help the cities of Fargo and Grand Forks, among others. That has not been completed, and all of us are anxious to get that done.

I hope in the next Congress to propose, along with my colleagues, a final revision of the Garrison diversion project that will achieve two goals: First, with the realistic constraints that we have on financing here in the Congress and the environmental restraints that exist on new environmental standards, I think we can reduce the authorized cost of this project for the American taxpayers and we can substitute a substantial State water development fund for the irrigation projects that are currently authorized. That would give the State much more flexibility in meeting its water needs, which might include irrigation but would include many other things as well.

Second, in a project revision we can make appropriate changes to the features of the project in order to finally move the Missouri River water from the western part of our State to the eastern part of our State for municipal, rural, and industrial purposes.

I expect that the proposal to revise a water program in North Dakota would be referred to the Senate Energy Committee, on which I sit, and it is my hope that the Congress will agree to make some practical revisions in this project; first, to save money, but, second and more importantly, to finally complete this comprehensive project for North Dakota.

I expect that we will probably hold some hearings in North Dakota late in this year in order to take testimony from North Dakotans, myself, and my colleagues from North Dakota, to talk about the revisions that are necessary in order to develop a statewide consensus. That would include working with the Governor, the State legislature, Indian tribes, local communities, the Garrison Conservancy District, North Dakota Water Coalition, environmental groups, water users, and virtually all interested North Dakotans in order to reach some kind of consensus on this project.

This is not a project in which the State of North Dakota went to the Federal Government and said, "By the way, would you give us something? Could we implore you to provide for us a water project?" It didn't happen that way at all. The Federal Government came to our State and said, "We would like you to play host to a permanent flood, and, if you do, we will provide you this benefit." This benefit called the Garrison conservancy project—or the Garrison diversion project, rather—included, first, an authorized 1 million acres of irrigation. Then it was downsized to 250,000 acres; then downsized again to 130,000 acres. It had a series of canals and features by which water could be pumped and moved from the western part of North Dakota to the eastern part of North Dakota.

The feature that was included in the 1986 Reformulation Act that now appears not to be able to be built with respect engineering standards and other standards that would be practical is something called the Sykeston Canal. That is a key feature that involves the moving of water through the features in this project from the western part of the State to the eastern part of the State.

The Garrison Conservancy District is now proposing that it be replaced with a pipeline proposal. There are other ideas as well. The pipeline proposal I think has some merit, and I think it is an approach that might well be workable. But it seems to me in reinvestigating this project we will have to find a feature that replaces the Sykeston Canal.

The Sykeston Canal was put in in the first place in 1986 because the Lonetree Reservoir, the original feature which was so enormously controversial nationally, in 1996 when the Sykeston Canal was proposed, it was judged at that point that it may or may not be practical, and if it was not, we would have to revisit the issue. It seems to me that we will have to revisit that issue next year.

Some would say that North Dakota has not gotten what it should get from this project. Some are very impatient. I recognize that. But about $350 million has been made available in expenditures in pursuit of completing this water project, including the $200 million for the MR&I fund. We have made substantial progress in a wide range of areas. But now we want to finish this project and do it in a reasonable time. We think that this is an achievable goal. It is not easy to find consensus on all of these issues, but this project is much more important than some would realize.

North Dakota is a semiarid State with 15 to 17 inches of rainfall a year. The ability to use the water in this reservoir for agricultural and rural municipal purposes is critical to the future of our State. Our State struggles to keep people. We have 640,000. We used to have 680,000 not too many years ago. And to keep people in North Dakota—a wonderful State with a low crime rate, with a wonderful education system and a lot of other advantages—we must provide jobs and must provide opportunity. That is what this project is about.

Some needs remain unchanged. There is a continuing requirement to permanently solve the water problems of the

Devil's Lake basin in my State where there is substantial flooding at the moment. That lake, the Devil's Lake area, suffers from intermittent cycles of ruinous draught and chronic flooding, and that warrants the construction of inlets and outlets as a part of a comprehensive water plan. We hope that will be excluded in the Garrison Diversion Project.

Finally, a final revision would have to meet the needs of native Americans who suffered the most in the inundation of their lands in North Dakota for this project.

In the final analysis, this issue is about opportunity and jobs in our State. It is about good faith on the part of the Federal Government to fulfill its obligations to North Dakota. All of us are impatient that we get this completed. But the reality is projects of this size are never completed quickly or without problems. We have met the challenges in the past, will in the future, and hope to provide proposed revisions that will allow us to finally complete this project.

North Dakotans' elected leaders—Republicans and Democrats —every major elected leader in our State for three decades has spoken with one bipartisan voice on this issue. For a State the size of North Dakota, that is crucial. We must plan together, work together, and pull together if we are to finish this project for the future of North Dakota. I hope that will be the case. I hope we will make some final revisions and take meaningful strides to completion of a dream in our State in the next Congress.

I would like to reiterate that for some 50 years, North Dakota has sought to realize the benefits of federally assisted water development since Congress proposed the Garrison diversion project as the backbone of State water development. Federal law provided that this comprehensive water plan was to accompany the construction by the Corps of Engineers of the Garrison Dam, which provided substantial flood control and navigation benefits for downstream States.

Last week the Congress approved $23 million to continue work on the Garrison diversion project in North Dakota. Nearly $350 million has been appropriated for Garrison diversion since the Congress enacted my legislation in 1986 making revisions in the project.

The Garrison project is not completed but it has generated hundreds of jobs and has brought quality drinking water and irrigation systems to three Indian reservations and rural and municipal water systems to dozens of communities all across North Dakota.

It now appears that further revisions will have to be made in the authorization of this project in order to see it to completion.

During the next Congress, I hope to propose, along with my colleagues, a final revision of the Garrison project that will achieve two goals. In tune with current fiscal constraints and environmental standards, we can reduce the authorized cost of the project and we can substitute a State water development fund for the irrigation projects to give the State more flexibility in meeting its water needs. Second, in a project revision we can make appropriate changes to the features in order to finally move Missouri River water throughout the State for municipal, rural, and industrial purposes.

I would expect that legislation to revise the project would be referred to the Senate Energy Committee, on which I sit. It would be my hope that the Congress would agree to make some practical revisions in the project to save money and to finally complete a comprehensive project for North Dakota.

I expect the North Dakota congressional delegation will hold some hearings in North Dakota toward the end of this year to take testimony from North Dakotans about the revisions necessary in order to meet the State's current water needs and to finally finish work on the project. We will work with the governor, the State legislature, Indian tribes, local communities, the Garrison Conservancy District, the North Dakota Water Coalition, environmental groups, water users and all interested North Dakotans in order to reach a statewide consensus on this issue.

Mr. President, I'd like to offer my colleagues some history on how the Garrison diversion project got started and why a final revision is necessary in order to complete the project.

In the 1940's the Federal Government wanted to harness the Missouri River to prevent massive downstream flooding in States along the Lower Missouri and Mississippi Rivers. Annual flood damage to downstream cities on the Missouri River was very costly. Also, the lack of stable water levels prevented reliable commercial navigation on the Missouri River.

So the Federal Government proposed a series of six dams, one of which was to be located in North Dakota. The Garrison Dam would wall up water in a reservoir that would be one-half million acres in size. In short, the Federal Government asked North Dakota to play host to a permanent flood as big as the entire State of Rhode Island.

The Federal Government said if you North Dakotans will do that, we will provide you with some significant benefits. The dam itself will generate low cost hydro-electric power and you will have access to some of this inexpensive electricity for rural development. And more importantly, the Federal Government will provide a Garrison diversion project which will allow you to move reservoir water around your State for massive irrigation—over 1 million acres—and for municipal, rural, and industrial uses.

The Army Corps of Engineers completed work on the dam in the mid-1950's. The permanent flood arrived in North Dakota and the downstream States received the bulk of the immediate benefits. The Missouri River no longer raged with uncontrolled flooding in the spring. Downstream navigation and barge traffic was reliable once again.

For North Dakota, the Congress authorized in 1965 a Garrison diversion project with water systems and an irrigation plan—downsized to 250,000 acres—as a payment for our permanent flood. The features of that project included a series of canals and pumping stations that would move water from the Missouri River in the western part of North Dakota to the eastern part of our State, all the way to the Red River and would allow for substantial amounts of irrigation with the diverted water along the way.

Some features of the Garrison diversion project became very controversial in the 1970's and national environmental organizations attempted to kill the project. The result was that progress on the project was slowed.

In 1986 the Congress enacted my legislation reformulating the Garrison diversion project and resolving the controversies. The irrigation features were reduced in scope to 130,000 acres and a municipal and industrial water fund of $200 million was created and given priority in appropriations.

A new feature called the Sykeston Canal was created to be a replacement for the Lonetree Reservoir, which had become a lightening rod for opposition to the project. At the time, the engineering and cost evaluation of the Sykeston Canal was suspect and we agreed then that if the Sykeston Canal proved to be unworkable we would have to revisit that issue.

The Garrison Diversion Unit Reformulation Act also provided for a water treatment facility to treat Missouri River water that would reach the Hudson Bay drainage after it flowed through for use by cities such as Fargo and Grand Forks along the Red River. The act also established requirements for wildlife mitigation, and for recreation development in North Dakota.

In the intervening years since the 1986 Reformulation Act, Congress has provided nearly $350 million in expenditures, most of which was used for the $200 million MR&I Fund. North Dakota has made enormous progress in building a southwest water pipeline and many other expenditures that have improved water delivery for cities and towns with undrinkable or inadequate water in our State.

However, we are impatient in wanting to finally finish the features of the project and move Missouri water to

eastern North Dakota so that our eastern cities have an assured supply of municipal and industrial water.

It is now clear that the Sykeston Canal is not a workable feature, from both an engineering and a cost standpoint so we must develop a new connecting link can be completed in a way that achieves our goal.

Therefore, it is necessary to make one last revision to this project. This final revision should include a substitute for the Sykeston Canal, as well as converting the bulk of the authorized irrigation acreage to a more flexible state water development fund that can be used for a wide range of North Dakota needs.

The Garrison Conservancy District has proposed a pipeline approach as a replacement for the Sykeston Canal. I believe that has substantial promise. Most of the work has been completed on the key features of this project and we are close to being able to realize the dream of a water diversion project that will help all of our State.

Naturally, some needs remain unchanged. There is a continuing requirement to permanently solve the water problems of the Devils Lake Basin. The lake suffers from an intermittent cycle of ruinous drought and chronic flooding, which warrants the construction of an inlet/outlet system as part of a comprehensive water management plan for the basin. Presently, Devils Lake is threatened by a 120-year flood, which may require the construction of an emergency outlet for which plans have already been developed.

Likewise, a final Garrison plan must meet the water development needs of native Americans and citizens of the Red River Valley. Native Americans suffered the most from the inundation of lands in North Dakota and their requirements for MR&I and irrigation must be addressed by the Congress. The cities of Fargo and Grand Forks and communities up and down the Red River Valley likewise look to Garrison diversion as the only realistic resource for problems of water quality and quantity.

The final form of Garrison diversion will also continue the State's commitment to protect and enhance wildlife and habitat. It has established a precedent-setting wildlife trust fund. Recreational development provided under Garrison diversion will also contribute to fish and wildlife management.

In the final analysis, this issue is about a future of jobs and opportunity in North Dakota's future. And it is about good faith—on the part of the Federal Government to fulfill its pledge to the people of North Dakota for water development.

All of us are impatient to get this project completed. But the reality is projects of this size are not completed quickly just because they are so massive in scope. Controversies must be resolved.

Since the project was authorized in the mid-1960's, North Dakota's elected leaders have spoken with one bipartisan voice in support of this project and I hope that will continue to be the case. It takes all of the collective energy that we can muster in a State of our size to get this project completed. We must plan together, work together and pull together to finish the work on this project.

Mr. COVERDELL. Mr. President, are we functioning as in morning business, each Senator allotted time?

The PRESIDING OFFICER. The Senator from Georgia is correct. We are operating in morning business. Each Senator is allotted up to 5 minutes.

VALUJET

Mr. COVERDELL. Mr. President, I rise today on a matter of vital concern to the economic well-being of thousands of Georgia families. I think we all remember the tragedy of the event in May, May 11, when ValuJet 592 plunged into the Florida Everglades. And, forever, as with any incident like this, we all are grieving over the families that were affected.

However, following this investigation, ValuJet airlines was grounded and went through the most thorough, grinding analysis of every aspect of their procedures possible. Because, obviously, safety is first and foremost, the center of any question as to whether the airlines could return to the air. I do not think it is generally known that on August 29, at 3:45 p.m., after having gone through this arduous procedure, the Federal Aviation Administration returned ValuJet airline's carrier operating certificate. In their own press release it says, "This action will permit ValuJet to resume operations at a future date if the airline is found to be managerially and financially fit by the Department of Transportation."

The point I want to make here is that 4,000 employees have been unable to draw a paycheck; 4,000 homes, not to mention the hundreds of business associated with the peripheral support of the airline, they have not been able to draw a paycheck. The FAA settled the preeminent question, is the airline safe? And they returned the certificate.

The Department of Transportation, which I had not realized, also must verify or issue a certificate to allow the airline to return to operations. It is now September 24, nearly a full month—and this is just the story of Washington over and over and over. The Department of Transportation said, on August 29, that the background and experience of ValuJet's management team fully qualifies them to oversee the carrier's operation. The Department of Transportation review of ValuJet, its forecast of current financial condition, finds that, "the company continues to have available to it funds sufficient to allow it to recommence operations at its planned, scaled-back level without undue economic risk to consumers. ValuJet has taken a number of steps to strengthen management procedures and has demonstrated a disposition to comply with all applicable laws and regulations."

August 29: FAA returns the certificate. It is safe. August 29: The Department of Transportation issues its findings that in the three major criteria it is to review it appears the airline is ready to fly. Today is September 24, and there is not one engine turning and there is not one paycheck being issued to one of those 4,000 families. In fact, we are being threatened with firing the remaining 400 employees. This is not right. This is not right. This is what everybody out there becomes so incensed about in the Washington apparatus. This airline is now ready to fly. Those workers need to be put back to work. The economic health that this airline represents needs to be returned to the air.

They have met the criteria that their Government demanded for safety and they have met the other basic criteria. We are now mired in bureaucracy. There was a period of time when this press release was issued, 7 days, during which anybody who had anything to say could say it. The airline had 4 days to comment on it. That has happened. It is long since passed. We still do not have the authorization to fly. I am just stunned by it. I do not know why. It happens every day in this town, the insensitivity, the 9 to 5 attitude. So what if 4,000 people are not getting a paycheck? So what if every day that goes by actually threatens one of the major criteria, economic solvency? Obviously, they do not become more solvent by sitting nailed to a tarmac. So what if we are about to fire 400 more people, even though FAA has said it is ready to go and DOT has said for all practical purposes it is ready to go?

Mr. President, these folks need to get their bureaucratic mishmash settled, and they need to get this airline back in the air, and they need to get these families economically solvent and able to pay their mortgages and pay for their kids' education, and get their families back together.

Mr. President, I can see the consternation on your face, which means my 5 minutes has expired. I appreciate the Chair's patience, and I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, while my colleague from California was on the floor I didn't get a chance to hear her, and much of what she said was in response to my question—and I use that term loosely because, in what I heard, she did not respond to the question. My question is a very simple

question. The question, obviously, needs to be asked and, hopefully, at some point someone will answer me. That is, what will be the position of innocence if, in the performance of this procedure where the baby is delivered feet first, this birth canal, the entire baby's arms and legs, torso, are outside of the mother's womb completely, arms and legs moving outside the mother, all that is left in is the head, that is, when this procedure is performed and the baby is then killed, what if—which is not unknown from what I understand—if, for some reason, when the shoulders were delivered the head were accidentally delivered, will the mother and the physician then have a right to choose whether that baby lives or not? Or, would they be responsible—would the physician have to do something to keep the baby alive, since it is now completely outside the mother?

I understand the Senator from California went in, started talking about when the procedure should be used, and certain facilities, and all the things that could happen as a result of not using this procedure, talked about Roe versus Wade, but did not answer the question as to whether it was still the woman's right to choose at that point. Since she wanted to have the abortion, whether it would still be the woman's right to terminate that pregnancy? She defends the procedure, but she does not answer the question, and I will ask that question again, as I will be on the floor for some time. I will ask that question again of the Senator from California or anybody else who wants to defend this procedure being used on a 24-week-old or 30-week-old baby.

The Senator from California talked about this procedure as medically necessary to stop—to prohibit infertility or if it is more dangerous because it could cause paralysis, and all of these medical-health reasons why this procedure should be performed. Let me read to you some information from a group of physicians. They call themselves FACT, Physicians Ad Hoc Coalition for Truth.

The first quote is from a doctor, Nancy Romer, chairman of obstetrics and gynecology at Miami Valley Hospital, in Ohio. People deserve to know, "partial-birth abortion is never medically indicated to protect a woman's health or her fertility."

"Never medically indicated." The Senator from California talked about how the American College of Obstetricians and Gynecologists support this procedure. You hear this often, how ACOG, which is how they go, American College of Obstetricians and Gynecologists, have come out in opposition to the bill and support partial-birth abortions. That is only half true.

They have opposed this bill. I will read to you the letter. I have a copy of the letter sent to the Speaker of the House dated last week:

> DEAR MR. SPEAKER: The American College of Obstetricians and Gynecologists, an organization representing more than 37,000 physicians dedicated to improving women's health care, does not support H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. The College finds very disturbing that Congress would take any action that would supersede the medical judgment of trained physicians and criminalize medical procedures that may be necessary to save the life of a woman. Moreover, in defining what medical procedures doctors may not perform, H.R. 1833 employs terminology that is not even recognized in the medical community—demonstrating why Congressional opinion should never be substituted for professional medical judgment. For these reasons we urge to you oppose the veto override. . . .

They do not support this procedure. What is very clear in this letter, to me, and I think to everyone who reads it, is they do not like having procedures criminalized. They do not want any doctor procedure criminalized. They want the doctor, basically, to have the say what kind of procedures they perform, if any.

I would ask the American College of Obstetricians and Gynecologists—and they will give me an answer. I guarantee you, in fact we will write them a letter today and fax it over: If this procedure was done and the baby's head slipped out, would the obstetrician be allowed to kill the baby?

If they would be so kind as to respond to that I will send the letter, if necessary. But I would suspect the answer would be pretty clear: No. No.

I do not know if we will get that answer from anybody on the other side.

The PRESIDING OFFICER. The time of the Senator from Pennsylvania has expired.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank the Chair.

Mr. President, let me return to the issue of partial-birth abortion. I would like to respond to a comment that was made about an hour ago, I guess, by my colleague from California, Senator BOXER. She is certainly very eloquent. She and I have debated this issue before, and I suspect we will be debating it again.

She made a statement to the effect that we have heard from the men, we have heard men come down to the floor, we have heard from the men, now let's hear from the women. Mr. President, there are many women in this country adamantly opposed to partial-birth abortions. I have received in my office over 90,000 postcards and letters from people in Ohio. That does not include the thousands of calls that we have received. By looking at some of these postcards, it is clear that a large number of these individuals are women who are writing about this issue.

But let's talk about three specific people, three women, three women who are professionals, who are experts, who have, I think, something really to say about this issue.

Let me first start with Brenda Shafer. Brenda Shafer described herself as pro-choice. She is working as a nurse in Dayton, OH. I am going to read very briefly from the testimony that she gave to the Judiciary Committee on November 17, 1995. She is describing at this point, Mr. President, in her testimony how she came to work in Dr. Haskell's office. This is what she said:

> So, because of strong pro-choice views that I held at that time, I thought this assignment would be no problem for me. But I was wrong. I stood at the doctor's side as he performed the partial-birth abortion procedure, and what I saw is branded on my mind forever.

Then she describes what she saw:

> The baby's little fingers were clasping and unclasping, and his little feet were kicking. Then the doctor stuck the scissors in the back of his head and the baby's arms jerked out, like a startled reaction, like a flinch, like a baby does when he thinks he is going to fall. The doctor opened up the scissors, stuck a high-powered suction tube into the opening and sucked the baby's brains out. Now the baby went completely limp. I was really completely unprepared for what I was seeing. I almost threw up as I watched Dr. Haskell doing these things.

Then she goes on:

> I've been a nurse for a long time, and I've seen a lot of death, people maimed in auto accidents, gunshot wounds, you name it. I've seen surgical procedures of every sort. But in all my professional years, I never witnessed anything like this.

Finally, she concluded:

> I will never be able to forget it. What I saw done to that little boy and to those other babies should not be allowed in this country. I hope that you will pass the Partial-Birth Abortion Ban Act.

Brenda Shafer described herself as pro-choice. She knew she was walking into a clinic where abortions were done. That is what they did. That is what she saw. That is what she described. No dispute about it. Dr. Haskell himself in the printed literature, articles he has written, describes, basically, the same procedure. That is Brenda Shafer.

The next woman I would like to reference and call the Senate's attention to and the testimony she gave to our committee is Dr. Pamela Smith. Dr. Pamela Smith is the director of medical education, department of obstetrics and gynecology, Mt. Sinai Medical Center, Chicago, IL.

In her testimony, she systematically described how this procedure is really not indicated, that it is not a medical procedure that is required. It does not really have to take place.

Let me read a portion of the testimony that she gave.

I ask unanimous consent, Mr. President, for 5 additional minutes.

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

Mr. DEWINE. Mr. President, here is what she says about the necessity of this procedure:

I went around and described the procedure of partial-birth abortion to a number of physicians and lay persons who I knew to be pro-choice. They were horrified to learn that such a procedure was even legal.

Later on in her testimony she says the following. Again, this is Dr. Pamela Smith:

Now, the cruelty to the baby is there for everyone to see, if you will acknowledge it. But I think that it is more difficult for people to recognize the risk to the mother that is associated with these procedures. I might also add that these risks have been acknowledged not only in standard medical literature, but by people who perform abortions as well.

Continuing her testimony, she concludes as follows:

Enactment of this legislation is needed both to protect human offspring from being subjected to a brutal procedure and to safeguard the health of pregnant women in America.

This is just one of the witnesses that we heard who said this procedure is simply not indicated, it is not something that is accepted in the medical field. It is not something that medical journals recognize. It is not something that doctors believe is necessary. That was Dr. Pamela Smith.

Let me conclude with a third individual, and that is Dr. Nancy Romer, a medical doctor. She is a clinical professor, ob-gyn, Wright State University, chairman of the department. This is her quote:

This procedure is currently not an accepted medical procedure. A search of medical literature reveals no mention of this procedure, and there is no critically evaluated or peer review journal that describes this procedure. There is currently also no peer review or accountability of this procedure. It is currently being performed by a physician with no obstetric training in an outpatient facility behind closed doors and no peer review.

Again, only one of several witnesses who testified that this is really not an accepted medical procedure at all.

Mr. President, I will be commenting further about this issue later on in the debate.

Let me conclude by saying what we are really about today, tomorrow and Thursday when we vote on this matter when we determine whether or not there are enough votes in this Senate to do what the House did, and that is override the President's veto, a veto that I believe was very misguided. The issue really is about what kind of a people we are and what we will tolerate, what we will turn our back to, what we will turn our head on and what we will say is OK: "I wouldn't do it, I don't like it, but I'm not going to do anything about it."

I think we really define who we are as a people, what kind of a people we are in this debate, because, Mr. President, if this procedure can be accepted, can be allowed in this country, I think virtually anything can be allowed.

My colleague from Pennsylvania, who has been very eloquent in this matter, and other colleagues have referred to the fact that this child—there is nothing else to call it, a child—is within seconds of being born, is within inches of being born. It is almost all the way out when that child is killed in the manner described by Nurse Shafer, and that if this procedure—and I think that almost debases the English language by calling it a "procedure," it is such a sterile word—is allowed to continue in this country, there is literally no limit to what we will tolerate, what we will turn our back on, what we will say: "We don't like it, but we will put up with it."

So I think we really do in this debate define what we are as a people, what we care about, what is important to us and what is not important to us. I yield the floor, Mr. President.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President. I thank my colleague from Ohio for his statement and for the tremendous amount of work he has done on this issue from the committee level through passage in the Senate, and here he is back again.

I can tell you that those of us who have spoken on this issue do not relish the opportunity to do so. It is a very difficult issue. It is a very tough issue to talk about. And Senator DEWINE has eight children. I have three children. My wife and I are expecting our fourth in March. We know how very serious this issue is. And we very much believe that in this case, on this issue, this is an issue of the life and death of a little baby. And we think it is important for us to stand up and say something about it.

Mr. President, I ask unanimous consent that I be given 20 minutes to speak on this issue.

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

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, what I was talking about a few minutes ago, Senator DEWINE highlighted. I just want to reinforce some of the evidence that has come forward throughout the process of the hearings and the debates in the House and Senate, but also new information that has been made available to us. I want to say again to Members who are thinking about this issue, who have possibly opposed this issue in the past, that there certainly is enough information that has come out since the original passage of this bill that would give any Member who truly does deliberate on this issue the opportunity to take another look and to gather all the facts.

I am going to read an article written by four obstetricians, two who the Senator from Ohio just referred to, Nancy Romer and Pamela Smith, but also Curtis Cook and Joseph DeCook. These are all obstetricians. They are members of an organization called PAHCT, which is, Physicians Ad Hoc Coalition for Truth. My understanding is that that group is now comprised of over 300 such physicians who share the opinion of this text that was printed on Thursday, September 19, in the Wall Street Journal.

The House of Representatives will vote in the next few days on whether to override President Clinton's veto of the Partial Birth Abortion Ban Act. The debate on the subject has been noisy and rancorous. You've heard from the activists. You've heard from the politicians. Now may we speak?

And speaking as obstetricians.

We are the physicians who, on a daily basis, treat pregnant women and their babies. And we can no longer remain silent while abortion activists, the media and even the president of the United States continue to repeat false medical claims about partial-birth abortion. The appalling lack of medical credibility on the side of those defending this procedure has forced us—for the first time on our professional careers—to leave the sidelines in order to provide some sorely needed facts in a debate that has been dominated by anecdote, emotion and media stunts.

Since the debate on this issue began, those whose real agenda is to keep all types of abortion legal—at any stage of pregnancy, for any reason—have waged what can only be called an orchestrated misinformation campaign.

First the National Abortion Federation and other pro-abortion groups claimed the procedure didn't exist. When a paper written by the doctor who invented the procedure was produced, abortion proponents changed their story, claiming the procedure was only done when a women's life was in danger. Then the same doctor, the nation's main practitioner of the technique, was caught-on tape-admitting that 80% of his partial-bath abortions were "purely elective."

Then there was the anesthesia myth. The American public was told that it wasn't the abortion that killed the baby, but the anesthesia administered to the mother before the procedure. This claim was immediately and thoroughly denounced by the American Society of Anesthesiologists, which called the claim "entirely inaccurate." Yet Planned Parenthood and its allies continued to spread the myth, causing needless concern among our pregnant patients who heard the claims and were terrified that epidurals during labor, or anesthesia during needed surgeries, would kill their babies.

The lastest baseless statement was made by President Clinton himself when he said that if the mothers who opted for partial-birth abortions had delivered their children naturally, the women's bodies would have been "eviscerated" or "ripped to shreds" and they "could never have another baby."

That claim is totally and completely false. Contrary to what abortion activities would have us believe, partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility. It seems to have escaped anyone's attention that one of the five women who appeared at Mr. Clinton's veto ceremony had five miscarriages after her partial-birth abortion.

Consider the dangers inherent in partial-birth abortion, which usually occurs after the fifth month of pregnancy. A woman's

cervix is forcibly dilated over several days, which risks creating an "incompetent cervix," the leading cause of premature deliveries. it is also an invitation to infection, a major cause of infertility. The abortionist then reaches into the womb to pull a child feet first out of the mother (internal podalic version), but leaves the head inside. Under normal circumstances, physicians avoid breech births whenever possible; in this case, the doctor intentionally causes one—and risks tearing the uterus in the process. He then forces scissors through the base of the baby's skull—which remains lodged just within the birth canal. This is a partially "blind" procedure, done by feel, risking direct scissor injury to the uterus and laceration of the cervix or lower uterine segment, resulting in immediate and massive bleeding and the threat of shock or even death to the mother.

None of this risk is ever necessary for any reason. We and many other doctors across the U.S. regularly threat women whose unborn children suffer the same conditions as those cited by the women who appeared at Mr. Clinton's veto ceremony. Never is the partial-birth procedure necessary. Not for hydrocephaly (excessive cerebrospinal fluid in the head), not for polyhydramnios (an excess of amniotic fluid collecting in the women) and not for trisomy (genetic abnormalities characterized by an extra chromosome). Sometimes, as in the case of hydrocephaly, it is first necessary to drain some of the fluid from the baby's head. And in some cases, when vaginal delivery is not possible, a doctor performs a Caesarean section. But in no case is it necessary to partially deliver an infant through the vagina and then kill the infant.

How telling it is that although Mr. Clinton met with women who claimed to have needed partial-birth abortions on account of these conditions, he has flat-out refused to meet with women who delivered babies with these same conditions, with no damage whatsoever to their health or future fertility!

Former Surgeon General C. Everett Koop was recently asked whether he'd ever operated on children who had any of the disabilities described in this debate. Indeed he had. In fact, one of his patients—"with a huge omphalocele [a sac containing the baby's organs] much bigger than here head"—went on to become the head nurse in his intensive care unit many years later.

So he delivered this baby that had these organs outside the body. Not only was that repaired, but that woman went on to become the head nurse in his intensive care unit.

Mr. Koop's reaction to the president's veto? "I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction" on the matter, he said. Such a procedure, he added, cannot truthfully be called medically necessary for either the mother or—he scarcely need point out—for the baby.

Considering these medical realities, one can only conclude that the women who thought they underwent partial-birth abortions for "medical" reasons were tragically misled. And those who purport to speak for women don't seem to care.

So whom are you going to believe? The activist-extremists who refuse to allow a little truth to get in the way of their agenda? The politicians who benefit from the activists' political action committees? Or doctors who have the facts?

Mr. President, I would like to read from the American Medical News. This was an interview with C. Everett Koop. In fact, I read most of it. I ask unanimous consent that this be printed in the RECORD.

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

[From American Medical News, Aug. 19, 1996]

THE VIEW FROM MOUNT KOOP

(By Diane Gianelli and Christina Kent)

Q: Clinton just vetoed a bill to ban "partial birth" abortions, a late-term abortion technique that practitioners refer to as "intact dilation and evacuation" or "dilation and extraction." In so doing, he cited several cases in which women were told these procedures were necessary to preserve their health and their ability to have future pregnancies. How would you characterize the claims being made in favor of the medical need for this procedure?

A: I believe that Mr. Clinton was misled by his medical advisers on what is fact and what is fiction in reference to late-term abortions. Because in no way can I twist my mind to see that the late-term abortion as described—you know, partial birth, and then destruction of the unborn child before the head is born—is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to . . . partial birth abortions.

Q: In your practice as a pediatric surgeon, have you ever treated children with any of the disabilities cited in this debate? For example, have you operated on children born with organs outside of their bodies?

A: Oh, yes indeed. I've done that many times. The prognosis usually is good. There are two common ways that children are born with organs outside of their body. One is an omphalocele, where the organs are out but still contained in the sac composed of the tissues of the umbilical cord. I have been repairing those since 1946. The other is when the sac has ruptured. That makes it a little more difficult. I don't know what the national mortality would be, but certainly more than half of those babies survive after surgery.

Now every once a while, you have other peculiar things, such as the chest being wide open and the heart being outside the body. And I have even replaced hearts back in the body and had children grow to adulthood.

Q: And live normal lives?

A: Serving normal lives. In fact, the first child I ever did, with a huge omphalocele much bigger than her head, went on to develop well and become the head nurse in my intensive care unit many years later.

Mr. SANTORUM. Thank you, Mr. President.

I think it is important to realize again the new information that has come out. The information provided by these physicians, the information provided by Mr. Cohen. And I have an article here by David Brown, published in the Washington Post, on September 17, just last week. This was the article that Mr. Cohen referred to in his column where he changed his mind. He changed his mind. Someone who is admittedly very pro-choice changed his mind on whether this procedure should be legal or not.

One of the reasons he changed his mind—the principal reason was as a result of Dr. Brown's article talking about "Late Term Abortions, Who Gets Them and Why," which is the name of the article by David Brown. He talks about who gets them and why. He talks about Dr. Haskell from Ohio, who says, "I'll be quite frank: most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent of the abortions are for genetic reasons. And the other 80 percent are purely elective."

Elective means, according to David Brown, that the fetuses were normal, or that the pregnant woman was not seriously ill.

I ask unanimous consent this article by David Brown be printed in the RECORD.

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

[From the Washington Post, Sept. 17, 1996]

LATE TERM ABORTIONS

(By David Brown)

In a White House ceremony in April, President Clinton vetoed a bill outlawing a technique of abortion done only in the second half of pregnancy. Termed "partial-birth abortion" by the people who decry it, and "intact dilation and evacuation" by the people who perform it, the technique has become the latest lightning rod in the nation's stormy debate about abortion.

Standing next to the president when he announced the veto were five women who had undergone late-term abortions with the controversial technique because their fetuses had severe developmental defects.

The women, Clinton said, "represent a small, but extremely vulnerable group . . . They all desperately wanted their children. They didn't want abortions. They made agonizing decisions only when it became clear their babies would not survive, their own lives, their health, and in some cases their capacity to have children in the future were in danger."

Others have sketched similar pictures. The Planned Parenthood Federation of America called this procedure "extremely rare and done only in cases when the woman's life is in danger or in cases of extreme fetal abnormality." The National Abortion Federation, an abortion providers' organization, said that "in the majority of cases" where it is used, there is a "severe fetal anomaly [birth defect]."

But it is not possible to speak with certainty about who undergoes "intact D&E," as the "partial-birth abortion" is known in medicine. The federal government does not collect such information. Physicians do not have to report it to the state health departments. Researchers do not study the question or publish their findings in medical journals.

Interviews with doctors who use the procedure and public comments by others show that the situation is much more complex. These doctors say that while a significant number of their patients have late abortions for medical reasons, many others—perhaps the majority—do not. Often they are young or poor. Some are victims of rape or incest.

Physicians who perform abortions beyond the first third of pregnancy say that use of intact D&E is quite rare. Just over 1 percent (about 17,000) of all abortions in this country occur after the 20th week of fetal development; it is after that point when the intact D&E procedure is sometimes used. Only a

fraction are believed to be intact D&Es, the controversial method in which the fetus is pulled by the feet out of the uterus and the head is punctured so it can also pass through the cervix. What's more, very few doctors perform this surgery; interviews with abortion experts suggest that there are less than 20.

What follows are sketches of the experience of several physicians who perform the intact D&E procedure, as well as the experience of doctors who perform abortions on patients with advanced pregnancies using an alternative technique. Taken as a group, the descriptions and observations by these practitioners paint a more complete picture of who decides to end their pregnancy at an advanced stage, and why.

A QUESTION OF SAFETY

One of the better-known practitioners of intact D&E is Martin Haskell, an Ohio physician who in 1992 presented a "how-to" paper on the technique at a medical conference in Texas. The dissemination of this document to antiabortion activists set the stage for the current campaign to ban the technique.

Although Haskell declined to be interviewed for this article, in his 1992 paper he said he had performed "over 700 of these procedures." Three years ago, American Medical News, a weekly publication of the American Medical Association, interviewed Haskell about his technique.

"I'll be quite frank most of my abortions are elective in that 20–24 week range," Haskell said, according to a transcript of the interview, which has circulated widely during the debate on the "partial-birth abortion" bill. "In my particular case, probably 20 percent [of the abortions] are for genetic reasons. And the other 80 percent are purely elective."

"Elective" is not a medical term generally used with abortion, but it is often used in medicine to denote procedures that are not medically required. In this context, it appears to mean that the fetuses were normal or that the pregnant woman was not seriously ill.

The American Medical News reporter also asked Haskell "whether or not the fetus was dead beforehand." The doctor answered: "No it's not. No it's really not. A percentage are for various numbers of reasons. . . . In my case, I would think probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not."

Also performing intact D&E abortions in Ohio is a 45-year-old physician named Martin Ruddock. Interviewed recently, he declined to estimate how many abortions he did each year, but said that only 5 to 10 percent were done in the later stages of pregnancy. Beyond the 18th or 19th week, Ruddock prefers to use the intact D&E technique.

He believes it is safer than its most common alternative, which is called "dismemberment dilation and evacuation." In that procedure, the fetus is removed in pieces, generally limbs first. It requires that the surgeon exert a great deal of force on the fetus inside the uterus, and it often produces short, bony fragments that can damage a woman's reproductive organs. On rare occasions, "dismemberment D&E" also exposes a woman to fetal substance (primarily brain tissue) that can cause dangerous reactions.

"To minimize those problems is why the [intact] procedure was developed," Ruddock said.

In practice, however, he employs it only a third of the times he'd like to, he said. Often the position of the fetus, or some other variable, makes intact D&E impossible, and he uses dismemberment instead. However, whenever he uses the intact method, he first cuts the umbilical cord—a maneuver designed to make sure the fetus is dead before he punctures its skull.

"The fundamental argument [of the technique's opponents] is that the fetus is alive. And what I am saying is that in my practice that never happens," he said.

In 45 percent of the cases done beyond beyond 20 weeks of gestation, he said, the fetuses have obvious developmental abnormalities or the women carrying them have illnesses that are being made worse by the pregnancy. In the other 55 percent, however, the fetuses are normal.

Another practitioner, who did not want to be identified, is a physician in the New York area who is affiliated with several teaching institutions. He does about 750 in the second trimester of pregnancy. He uses intact D&E in "well under a quarter" of those, he said. About one-third are his private patients, and the rest are ones he sees at the teaching hospitals, where he instructs physicians in training.

This doctor said that the "great majority" of the private patients have medical reasons for their abortions: Either the fetus is abnormal or the pregnant woman's health is threatened by the pregnancy.

The nonprivate patients, however, are different. They tend to have lower incomes, and the fraction of them who have medical reasons for abortion "is not nearly as high, [but] I can't quantify it," he said. In the cases in which there is no medical indication, the fetuses are usually normal.

A CALIFORNIA DOCTOR'S EXPERIENCE

The notion that intact D&E is done only in the third trimester—very late in the pregnancy, generally after 24 weeks—and only when the fetus has catastrophic defects, appears to have arisen from widespread publicity about the practice of a doctor in Los Angeles named James T. McMahon, who died last year. His specialty was the very late abortion of fetuses with severe developmental defects.

Patients came to him from across the United States and sometimes even from outside the country. All of the women who appear with Clinton at the veto ceremony had their abortions done by him.

McMahon used intact D&E extensively because after about the 26th week of gestation dismemberment of fetuses is extremely difficult, if not impossible.

In a letter written in 1993 to doctors who referred patients to him, he said that in 1991 he'd done 65 third-trimester abortions. All of these cases, he said, were "nonelective." Of all the abortions done beyond 20 weeks, 80 percent were for that he termed "therapeutic indications"—that is, medical reasons.

In documents submitted to the House subcommittee on the Constitution, McMahon provided a list of some of these reasons. He categorized 1,358 abortions he'd performed over the years, all of them done (his testimony suggested) on women at least 24 weeks pregnant.

Most of them were for extremely rare genetic defects.

The list contained a few slightly more common conditions including anencephaly (lack of a brain) in 29 cases, spina bifida (open spinal column) in 28 cases and congenital heart disease in 31 cases. A few of the conditions on the list, however, are rarely fatal. Cleft lip, cited as the "indication" in 9 cases, is surgically correctable after birth, sometimes with permanent disability and sometimes without.

The maternal indications in McMahon's list were similarly varied. The severity of the illnesses can't be inferred, although many of the problems he gave are not commonly life-threatening. These included breathlessness on exertion, one case; electrolyte disturbance, one case; diabetes, five cases; and hyperemesis gravidarum (intractable vomiting during pregnancy), six cases. The two most common maternal indications were depression (39 cases) and sexual assault (19 cases).

Although the few other doctors who are known to use the intact D&E method refused to be interviewed, one overseas practitioner would. He is David Grundmann, a 49-year-old physician from Brisbane, Australia, who learned the technique from McMahon about five years ago during a visit to the United States.

Grundmann performs abortion up to 22 weeks of gestation and, like McMahon, treats patients who travel great distances for his services. He and his two partners do 60 to 100 intact D&E cases a year.

In an interview last week, he said that in about 15 percent of those cases, there is a severe defect of the fetus.

* * * * *

THE WOMEN AFFECTED

It's difficult to say how representative these five doctors are of the rest of the small fraternity of practitioners who perform intact D&E in the United States. Interviews with physicians who use other abortion techniques—generally dismemberment—may help indirectly illuminate why most late-term abortions, including intact D&E abortions, are done.

Warren Hern, a 57-year-old physician who practices in Boulder, Colo., has a master's degree in public health and a doctorate in anthropology. He is one of the few providers of late-stage abortions who publishes research on the topic in medical journals.

Hern performs between 1,500 and 2,000 abortions a year. About 500 are on women 20 to 25 weeks pregnant. Of those, about one-quarter involve abnormal fetuses. He does between 10 and 25 abortions each year on women more than 26 weeks pregnant, and all of them involve fetal abnormalities or serious maternal disease, he said.

"It is true that a significant proportion of the community is offended by any abortion after 26 weeks that is not medically indicated," he said. "We practice medicine in a social context. So that is why I will not perform an abortion after 26 weeks just because a woman has decided she does not want to carry the pregnancy to term."

Women seeking an abortion late in pregnancy "are often young, frequently not married, and many have a child already, or more," said Steve Lichtenberg, an obstetrician-gynecologist in Chicago who does abortions up to 22 weeks of development. Many are poor, have not completed school or established themselves in the work force, he said, and are in excellent health.

* * * * *

"The number who volunteer that information is substantially smaller than the number who've actually been subjected to social or sexual violence."

Herbert Wiskind is the administrator of the 19-bed Midtown Hospital in Atlanta, whose four doctors perform about 25 abortions a week on women at least 18 weeks pregnant. In his experience many of the late procedures occur simply because of denial.

"You have a young girl who becomes pregnant, someone 15 or 16 years old," he said.

"She doesn't know how to tell her parents or her boyfriend. So she puts herself on a diet and tries to deny she's pregnant."

However, Wiskind said, some fetal defects aren't diagnosed until late in pregnancy for unavoidable reasons. Amniocentesis, one technique of fetal genetic screening is done between weeks 15 and 17 of pregnancy. Several weeks can then pass before test results are known, and when they indicate a problem it often takes a woman several more weeks to decide about abortion, he said. In addition, many deformities can only be diagnosed through sonograms and were not apparent until the midpoint of pregnancy or later.

Thomas J. Mullin does abortions through the 24th week of gestation, as calculated by sonographic measurement of the fetus's head. He practices in the New York area.

Of the procedures Mullin does in weeks 20 through 24, about one-third are for fetal abnormalities, he said. In about 10 percent of cases, the woman has an illness, such as severe diabetes or painful uterine fibroids, that is not necessarily life-threatening but is clearly made worse by pregnancy.

"The remainder of them are just errors," he said. "Many are young patients—12 to 20 years old—who are not in touch with their reproductive system as well as they should be, so they get stuck later than they want in pregnancy. They get surprised, basically."

Jaroslav Hulka, a professor of obstetrics and gynecology at the University of North Carolina, supervises a teaching program whose physicians do 250 to 300 abortions a year on women carrying fetuses between 13 and 22 weeks old.

"Ninety-five percent of those are normal—that's fair to say," he said. Occasionally, fetuses up to 24 weeks old are aborted if they have a condition incompatible with life. The physicians use the dismemberment technique—an arduous and potentially risky procedure.

"The technique that the Congress is concerned about [intact D&E] is a level of skill above this," Hulka said. "They are doing what we're all supposed to do—namely, minimize the risk to the patient."

Practitioners of the intact procedure argue that their method is the least traumatic among the many variants of dilation and evacuation abortions used and is not—as their critics claim—the most barbarous. In testimony submitted last year to a congressional subcommittee, the late James McMahon wrote:

"In a desired pregnancy, when the baby is damaged or the mother is at risk, the decision to abort may be intellectually obvious, but emotionally it is always a personal anguish of enormous proportions . . . For the physician who is willing to help the patient in this dilemma, choices are few. Intact D&E can often be the best among a short list of difficult options. . . . Dealing with the tragic situations that I confront daily makes me constantly aware that I can only limit the hurt by doing gentle surgery and giving sympathetic counsel."

Mr. SANTORUM. Mr. Brown talks about the different reasons—and a lot of the reasons given by physicians are reasons that are not medical necessities. Dr. Markman from California, I believe, performed nine abortions on third-trimester abortions on babies. The fetal abnormality? Cleft palate.

Dr. Pamela Smith sums it up best in a letter written October 28, last year, to CHARLES CANADY, who carried this bill over in the House. The last paragraph:

There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the health risks of the mother. The health status of women in this country will thereby only be enhanced by the banning of this procedure.

I think Mr. Cohen and the doctors I will refer to later have hit the nail on the head on what is going on with this whole debate.

I came to the floor last year and spoke on this issue. It is the first time in 6 years as a Senator and Congressman that I had ever taken to the floor of either body and utter the word "abortion." I am pro-life. I feel very strongly about that. But I have never felt moved before to stand up and do something about it until I saw this.

I thought eventually in this country if we go out, as I have tried to do and talk to people, and try to change hearts by talking to people, young people, and talk about abortion, talk about how it is a scourge on our country, and that 1.5 million of these are performed every year in this country. It is not a healthy thing for women who have them. It is certainly not a healthy thing for our society that so many are done. I thought if we just kept vigilant we would see what the President said he would like to see—that abortions are safe, legal, and rare.

To me, this bill and the President's veto of this bill showed me that the rhetoric—how appealing it is, that abortions be rare—is just rhetoric. You cannot, you cannot, in your heart want abortions to be rare and allow this to happen in this country. What are you saying? What are you saying to those young people who are home from school and maybe made the mistake of plopping on C-SPAN 2 for a few seconds and they hear someone stand up and say you can deliver a baby and you can kill it. What are you saying to people who actually have to deal with this issue, saying we can kill, not as Mr. Cohen says, a few weeks old inch-long embryo, but a fully formed viable baby, viable baby, inches away from that first breath. What kind of a message does that send? What kind of a country are we?

If we knew of a procedure that had dogs delivered and then we performed that procedure on puppies, do you know how many letters from animal rights activists we would be getting now—and some of the very same people who would argue to keep this legal would argue to ban the other. What does that say about us?

You have the President of the United States who works very hard in the language of his veto message to try to cast the debate in a different light, talking about issues that really are not substantive here. I will read again and again until the cows come home, "there is absolutely no obstetrical situation encountered in this situation which requires a partially delivered human fetus to be destroyed to preserve the health of the mother." Yet the President vetoed it. Why? To preserve the health of the mother. It does not happen that way.

We try to form the debate around things that people can feel comfortable with. This issue is an issue that a lot of people do not feel comfortable with. We do not like to talk about it. But we have to talk about this because we are defined not by what the President of the United States would like us to feel comfortable with, not by the language that we can hide behind and not think about, but by what goes on every day in this country.

A lot of folks in Washington would like us to be cast in what we say. What we say is what we really are. I think in our hearts we know what we do is what we really are.

I have a lot of faith in the U.S. Senate. I have a lot of faith in the people who sit here and serve here, that they will take that time and will gather that evidence and look at the United States of America and say in the greatest civilization known to man—will we allow this to happen here?

I believe, even though all the media reports says we will never override the President's veto here, we are way short—well, we may have been, but I truly believe that my colleagues will study this issue well, will take all the new information that is available and will look at where we are in America and what signal we are going to send to this generation and future generations of Americans about what we will become.

If this is not wrong, I do not know what wrong is. This is wrong, and I believe the U.S. Senate will stand up in the next few days and tell the American public, "We heard you." Tell those babies we understand now we are not going to let this happen any more under our watch.

I see the Senator from California is here and I asked her a question. I will ask it again because she did not answer it the two times previously when I asked, so I will ask one more time.

A partial birth abortion is performed when a baby is delivered feet first, as the Senator from Ohio described, the baby is delivered feet first through the birth canal. Everything is delivered—arms, shoulders, torso, legs, all delivered outside of the womb, outside of the mother completely except for the head. As nurse Brenda Shafer said, "A pair of curved scissors, surgical scissors, are then inserted into the base of the skull and the brains removed."

My question to the Senator from California is, what would her position be if, when the shoulders were delivered, that accidentally the head was

also delivered; would the woman and her doctor—and I hear so often it is the woman and her doctor's right to choose—would the woman and the doctor in that situation where the head is delivered and the baby is completely outside of the womb, would the doctor be permitted, then, to kill the baby?

I will be happy, then, to yield the floor and await her answer.

Mrs. BOXER. Mr. President, I know the Senator from Florida is here to talk on another matter. Could I ask unanimous consent that I be allowed to speak for 10 minutes, immediately followed by the Senator from Florida for 15 minutes?

The PRESIDING OFFICER. Is there objection?

Mr. DEWINE. Reserving the right to object, I would like to inquire as to the amount of time we have remaining. My understanding is we will go to a vote at 5 o'clock.

Is that our cutoff time?

Mrs. BOXER. I say to the Senator, if you would like me to add the Senator, following Senator GRAHAM, I am delighted.

Mr. DEWINE. I do not think I will object. I want to see where we are.

The PRESIDING OFFICER (Mr. THOMPSON). We were scheduled to resume the pending business at 4:30, with half an hour of debate and then a series of votes at 5 o'clock.

Granting the Senator's request would delay those times.

Mr. SANTORUM. If the Senator will withhold we will see what the situation is. We will be happy to accommodate the Senator from Florida if we can.

Mrs. BOXER. I renew my request. The Senator spoke for 20 minutes. I would like to speak for 10 minutes. I would be happy to make as part of that request that the Senator from Ohio follow.

Is the Senator objecting to my getting 10 minutes?

Mr. SANTORUM. We are scheduled to go to debate on the bill and votes at 5 o'clock. This unanimous consent would push that back, and because Members are scheduled later this evening, they do not want to do that. That is the problem.

Mrs. BOXER. In trying to accommodate everybody, it seems to me—it is 20 after 4. We go to the bill at 4:30. Then I would ask for the normal 5 minutes to see where we go.

I am going to try this, Mr. President: That we delay going to the bill by 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SANTORUM. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. The reason I have been rather insistent is that for many hours today my name has been mentioned on the floor perhaps not directly but "the Senator from California." And every time I go back to do business with being "the Senator from California" I hear another misstatement on the floor and the repeated question about how I feel about perfectly healthy babies and a perfectly healthy birth being aborted.

Not one United States Senator who is pro-choice believes that there should be an abortion allowed on a perfectly healthy pregnancy in the late term. I repeat that again. It is my position certainly in the late term—this is in concert with Roe v. Wade—that these abortions not happen on a healthy baby. And I want to say to my friend when he keeps posing that, he has never given birth. I have had the honor and the privilege to do so twice. One of my babies was born in a breach fashion.

So when the Senator asks me how I feel about that, I get a little upset because the way I felt about that at the time was God help me have a healthy baby. And she was premature, and I prayed every minute of the way.

So I do not want anyone to come to this Senate floor—and I ask you, I plead with you, not to do this anymore—and talk about "the Senator from California's position."

I am a grandmother. It is the greatest thing that has ever happened to my husband and myself. I prayed for healthy babies, and, no, I do not support the abortion of a healthy pregnancy—not one Senator does—despite the fact that my colleague makes it sound as if we do.

We could walk hand in hand down this aisle of the U.S. Senate and pass a bill in 60 seconds that outlawed this procedure except for life of the mother and serious adverse health impact. We could be together. But instead we have to face a debate that no doubt will show up on 30-second commercials.

I know that my colleague referred to the President as Mr. Clinton. Mr. Clinton met with mothers who have this procedure. He said, "Why didn't he meet with other people on the other side?" He has talked about this issue. He has looked at this issue. He has come to the conclusion that he would definitely sign a bill that made that life and health exception.

I quote from his letter.

> I urge that you vote to uphold my veto of H.R. 1833. My views on this legislation have been widely misrepresented.

And I might say to the President, they are being misrepresented as we speak by Members on the other side of this issue.

He says:

> I am against late-term abortions, and have long opposed them except where necessary to protect the life or health of the mother. As Governor of Arkansas, I signed into law a bill that barred third-trimester abortions with an appropriate exception for life and health. And I would sign a bill to do the same thing at the Federal level, if it was presented to me.

So here you have a President who has indicated that he would sign a bill outlawing this procedure with an exception for life and health. But no. The other side does not want that. They would rather come down and demagog the issue.

If I might say, I hear about Mr. Cohen's article. Good for Mr. Cohen. He has taken a lot of different positions on a lot of subjects.

How about listening to the women who have gone through this like Maureen? Maureen is a 30-year-old Catholic mother of two, and lives in Massachusetts. On February 17, 1994 Maureen and her husband were joyously awaiting birth of their second child. On that date when she was 5 months pregnant a sonogram determined that her daughter had no brain and was nonviable. Her doctor recommended termination of the pregnancy.

On February 18, 1994, a third-degree sonogram at New England Medical Center in Boston confirmed the diagnosis that the baby had no brain and was nonviable.

Maureen and her family sought counsel from their parish priest, Father Greg, who supported the decision to terminate the pregnancy.

Mr. President, may I have order.

The PRESIDING OFFICER. The Senate will come to order.

Mrs. BOXER. Maureen found out that her baby had no brain. She is a practicing Catholic, and she went to her priest, Father Greg. On the record he supported her decision to terminate the pregnancy.

They named their daughter Dahlia. She had a Catholic funeral and is buried at Otis Air Force Base in Cape Cod, MA.

And Senators in this Chamber want to insert themselves into that family, insert themselves into the dialog between her priest, her God, and her family?

President Clinton will sign a bill that outlaws this procedure with an exemption for life and health. Throughout this debate I will bring up example after example.

And I urge my colleagues. This is not about 30-second commercials. This is about the life of women.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. BOXER. We will continue this debate, Mr. President.

I yield the floor.

Is it time now to go to the bill at hand?

The PRESIDING OFFICER. Under the previous order, it would be time to go to the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent for 5 minutes, and I would be happy to share that time, half and half.

Mrs. BOXER. If there is no objection, I save my 2½ minutes until after the Senator is finished.

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

Mr. SANTORUM. Mr. President, the Senator from California makes a point—again, it is a good one—that the President will sign the bill with the exception for the life and health of the mother. That is what the President said.

I have two amendments. One, the health of the mother exception has been consistently held even though it has been narrowly drawn by many State legislatures, the health of the mother exception has been interpreted by courts unanimously as being anything—financial health is the health of mother; social interaction, health of the mother; her age, health of the mother; maturity; emotional health; mental health; physical health. Yes. It is a limitation without limit. It is no limitation at all. And the Senator from California knows that. More importantly, the President of the United States knows that very well.

It is all how to frame the issue. It makes a lot of people feel comfortable that the President really does want to limit these things. It is only these serious health consequences, and that is reasonable until you understand that health consequences is not a limit on the procedure. It is not a limit on the procedure.

So to make a limitation that does not have a limit is just what I described before which is someone who wants to be judged by what they say to you that sounds so nice instead of what the reality of what their words would be which means partial-birth abortions would continue to go on in this country without limitation if we passed a bill that had a health limitation. That is not RICK SANTORUM, the Senator from Pennsylvania speaking. That is court after court after court after court interpreting language that you would believe would be rock solid. But with the judges it is not. So I would just say go ahead and continue to use it, as I am sure you will—that we could agree on this rhetoric. But I can guarantee you we cannot agree on this rhetoric. We cannot agree on a limitation that is a phony limitation; to a procedure that is infanticide and nothing more.

The second thing I would say is you have doctor after doctor who has written to us and said that this procedure is never medically necessary to save the life or health of the mother.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California.

Mrs. BOXER. Thank you very much.

Mr. President, once more I want to put on the table what the Members of the U.S. Senate could agree to at any moment. We would say this procedure cannot be used unless the woman's life is at stake because there is no true life exception in this extreme bill before us, or to spare her serious adverse health consequences.

And let me just say to my colleague in all due respect—and as collegial as I can be in the moment here—if you are suggesting that anyone in this U.S. Senate is talking about financial health of the woman, let me just say it is an absolute outrage if you would think that is what we are talking about. We are talking about infertility for life. We are talking about paralysis. We are talking about bleeding to death.

Vikki Stella, mother of two, was in the third trimester of her pregnancy when she discovered her son was diagnosed with nine major anomalies, including a fluid-filled cranium with no brain tissue at all, compacted flattened vertebrae, and skeletal dysplasia. The doctor told her the baby would never live outside the womb. She said, "The only option that would assure that my daughters would not grow up without a mother was a highly specialized, surgical abortion procedure developed for women with similar difficult conditions. Though we were distraught over losing our son, we knew the procedure was the right option . . . and as promised, the surgery preserved my fertility. Our darling son Nicholas was born in December 1995."

Senators in this Chamber would stand up to this woman and tell her, "Too bad, even though your doctor said it was necessary to have this procedure so you could have another child; too bad."

You know, I will tell you something. For people who say they want to get Government out of the lives of the people, this is extraordinary to me. Let us leave these tragic situations to the mother, to the father, to the doctor, to the priest, to the rabbi, to God. Let us think seriously. If it was your wife, if it was your daughter, and the doctor looked in your eye and said, "Your wife might die if I do not use this procedure," at that moment would you want him or her to use the procedure that would save that life?

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. Thank you.

MARITIME SECURITY ACT

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, the Senate will now resume consideration of H.R. 1350, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1350) to amend the Merchant Marine Act, 1936, to revitalize the United States-flag merchant marine, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Grassley amendment No. 5393, to clarify the term fair and reasonable compensation with respect to the transportation of a motor vehicle by a certain vessel.

Grassley amendment No. 5394, to prohibit the use of funds received as a payment or subsidy for lobbying or public education, and for making political contributions for the purpose of influencing an election.

Grassley amendment No. 5395, to provide that United States-flag vessels be called up before foreign flag vessels during any national emergency and to prohibit the delivery of military supplies to a combat zone by vessels that are not United States-flag vessels.

Inouye (for Harkin) amendment No. 5396 (to amendment No. 5393), to provide for payment by the Secretary of Transportation of certain ocean freight charges for Federal food or export assistance.

Mr. STEVENS. Mr. President, what is the parliamentary situation now with regard to time?

The PRESIDING OFFICER. There will now be 30 minutes debate, equally divided, on the rate issue, 15 minutes under the control of the Senator from Iowa [Mr. HARKIN] and 15 minutes under the control of the Senator from Iowa [Mr. GRASSLEY].

Mr. STEVENS. I think it was our intention that we would have 1 minute on each side; Senator INOUYE with regard to the Harkin amendment, and myself with regard to the Grassley amendment.

I ask unanimous consent that be the case. We have to have some time to move to table and make a comment.

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

Mr. STEVENS. The remainder of the amendments are likewise controlled?

The PRESIDING OFFICER. There is a series of amendments to be voted on in sequence.

Mr. STEVENS. It was my understanding the Senator from Iowa wishes to withdraw one of those amendments. I ask he be recognized for that purpose.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 5395 WITHDRAWN

Mr. GRASSLEY. Mr. President, I ask to withdraw amendment No. 5395. For my colleague from Iowa, this is not the amendment regarding which his amendment amends mine. I ask unanimous consent to withdraw No. 5395.

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

Amendment No. 5395 was withdrawn.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. HARKIN. I understand I am recognized for up to 15 minutes?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 5396 TO AMENDMENT NO. 5393

Mr. HARKIN. Mr. President, I have been generally supportive of the practice of shipping a certain percentage of our U.S. foreign food assistance on U.S.-flag ships. I have in the past supported amendments designed to reform that program to ensure the costs of using the U.S.-flag ships are reasonable. But I have not been supportive of proposals that would essentially kill the policy of using U.S.-flag vessels, because I believe that U.S. maritime fleet ships are important to our national defense.

I also believe that when we are providing largess to other countries, we

should do all that we can to also support U.S. jobs and U.S. industries. After all, we make sure that U.S. farm commodities are used in these food shipments. We do not go to other countries to buy the food to give it away. We use our own farm commodities. As long as costs are fair and reasonable, I believe we ought to use U.S. ships to haul a share of this aid.

My colleague from Iowa, Senator GRASSLEY, says that I may be undercutting his efforts at reform. But my amendment is the only way to have real reform. What my amendment would do, is take any higher costs involved in using U.S.-flag ships out of USDA entirely and put it in the Department of Transportation.

Senator GRASSLEY's amendment would essentially kill our U.S. maritime industry by sending shipping business to foreign-flag vessels. If, for example, a foreign ship would haul cargo for $18 a ton, Senator GRASSLEY's amendment would give that business to a foreign-flag vessel if the U.S. ship was going to charge any more than $19.08 a ton. Is that the price at which we will sell out our U.S. maritime industry, which is so important to military sealift and military security, $1.08 a ton?

Or, if you are using container ships, if the lowest acceptable foreign rate, just to take a hypothetical example, is $1,000 a container, Senator GRASSLEY's amendment would cut out U.S. ships if their rate is any higher than $1,060 a container. So for $60 a container we would give all that business to a foreign country.

I do believe, however, that supporting our U.S. merchant marine is properly a transportation function, rather than an agricultural or food aid function. Any higher costs of using U.S.-flag ships should not come out of the food aid budget but should, instead, come out of the Department of Transportation budget.

I will also point out that the amendment of my colleague, Senator GRASSLEY, would still have any higher costs of U.S. ships coming from the agricultural food aid budget. I do not think that is right. I do not think that is real reform.

Let us be clear, there have been some gross exaggerations about the higher costs of U.S.-flag ships. But I admit freely there are some higher costs involved, because those U.S. ships must comply with more stringent environmental and safety regulations and because the people who work on them are U.S. citizens and they pay U.S. taxes. Those people who work on those ships pay Federal and State and local taxes. They have homes here in communities in our country. They pay property taxes. They support their local schools.

If you take the money paid for shipping food aid and give it to a foreign-flag vessel and to foreigners operating on those ships, they do not pay any taxes here, they do not support our local schools, they do not raise their kids in America.

All in all, the U.S. maritime industry runs a more responsible operation than flag-of-convenience operators that may sail under the flag of a foreign country with very lax standards. So our costs of operation are understandably higher.

In any event, then, there are some higher costs in using U.S.-flag ships. This is called the ocean freight differential. To the extent that USDA pays for this differential, there is some reduction in the amount of food aid that can be shipped. That is what I want to change. My amendment would simply shift all of any added costs of using U.S.-flag ships to the Department of Transportation. There is clear precedent for my amendment. In fact, it would build on a partial shift of cargo preference costs to the DOT that we began in 1985.

Prior to the 1985 farm bill, 50 percent of U.S.-sponsored food shipments were required to be transported on U.S.-flag ships. There was a court decision that held that this requirement applied to commercial sales as well as to food aid. So a compromise was reached in the 1985 farm bill under which 75 percent of food aid—that is the donations and concessional sales of food that we give to people overseas—would be transported on U.S.-flag ships, but that commercial agricultural exports would be totally exempt from any cargo preference requirement, even if those sales were supported by U.S. export subsidies or assistance. So, today, less than 2 percent of our total agricultural exports are required to be transported on U.S.-flag ships. No commercial sales are under the requirement at all.

Part of that compromise that we reached in 1985 was that the Department of Transportation would reimburse the Department of Agriculture, for any increase in food aid shipping costs caused by that change in the cargo preference requirement from 50 percent to 75 percent. So, already the Department of Transportation covers a portion of any higher charges for shipping food aid on U.S.-flag vessels.

What my amendment would do is shift all cargo preference cost over. The Department of Transportation would reimburse the Department of Agriculture for all food aid shipping charges to the extent they exceed prevailing world shipping rates. My amendment employs the same reimbursement mechanism now used by the Department of Transportation to reimburse the Department of Agriculture for a portion of those costs. So my amendment will put the costs of supporting our U.S.-flag merchant marine—which I believe is vitally important to this country—where it belongs, in the Department of Transportation, not the Department of Agriculture.

As I said, I have always believed, and still do, that it is important to support our U.S.-flag merchant marine as a matter of national security. Also, because shipping is an important basic U.S. industry, with U.S. jobs at stake, employing U.S. citizens, people who work and raise their families here and pay their taxes in this country, I believe it is important to have a U.S. merchant fleet.

We cannot afford to send any more U.S. jobs out of this country. The Grassley amendment would do that. It would turn over everything to foreign vessels flying a flag of convenience. But that support, I say, that we should provide for our U.S. merchant marine should not diminish the quantity of agricultural commodities that USDA can ship as food aid. If we are going to give food to hungry people and starving people around the world—which we ought to do—to the extent that it costs us more to ship it on U.S.-flag vessels, that money should not come out of the food aid budget, it ought to come out of our transportation budget.

I tried to offer this amendment several years ago, in 1990. It was tabled. Again, I recall my colleague from Iowa moved to table the underlying amendment and brought down that amendment, too. Unfortunately, the debate over cargo preference has pitted agricultural interests against maritime interests. That is too bad. In order to meet the stiff challenges from overseas competition in the trade arena, we need more cooperation, not antagonism among our basic American industries.

I am proud to represent an agricultural State. I am proud of how much we sell overseas. I am also proud of how much food the citizens of Iowa donate every year abroad. I am also proud of the men and women who go to sea in ships. Perhaps it is because of my military background. Maybe it is because I spent so much time in the Navy. But I know what a lonesome life it can be, and I know how hard they work, and I know how they sacrifice and give up a lot of time from their families. I also know when our country calls on that merchant fleet to ship military cargoes to a foreign country, in dangerous waters, they must respond.

Now, if it is a foreign-flag vessel, we cannot call on it to sail into dangerous areas for military purposes. They can simply say no, we are not going to ship your cargo because we believe it is too dangerous. So that is why I maintain my strong support for a strong U.S.-flag merchant fleet. And I believe as deeply as I believe anything that the funding to support our U.S.-flag merchant fleet should come out of the transportation budget, and I will continue to fight for that.

That is all my amendment does. Again, I hope that we don't have to have this antagonism between agriculture and the maritime industry. It

shouldn't be there. We ought to be working together. We ought to be working together for the benefit of more jobs in the U.S., for the benefit of a stronger agriculture in the U.S. and, yes, working together to make sure that out of our generosity we give the maximum amount of food aid that we can give to starving people around the world.

I believe my amendment will resolve a nettlesome issue that has fostered conflict between agriculture and the maritime industry for a long time. My amendment will allow USDA to ship more food aid and to purchase more farm commodities for that purpose. And, yes, it will support a strong maritime industry. I urge my colleagues to support my amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes 50 seconds.

Mr. HARKIN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The senior Senator from Iowa.

Mr. GRASSLEY. I yield myself 10 minutes.

Mr. President, everyday, millions of Americans get up, they have their breakfast, they pack their lunches, they send their kids off to school. In many households, over a majority, both spouses work. These are the forgotten Americans, the people who go to work every day. They are working harder and harder and taking home less and less money. Nobody is talking on this bill about that portion of America. That is the America we should be concerned about.

So I use that to remind all of my colleagues, Republicans and Democrats, that we are about to vote to create a new subsidy program, a corporate welfare subsidy program. I say to my Democratic colleagues—all of them—how many times do I hear you say that we should end corporate welfare? This is an opportunity to do that, by not voting for this bill and creating a new welfare program.

I say to my Republican colleagues who, in the tax bill last year, thought it was so necessary to respond to the people's will to eliminate corporate welfare, that we had in our tax bill probably $25 billion of reduction in corporate welfare that is done through the Tax Code of the United States.

So I say to my Republican colleagues, you have an opportunity to have one less corporate welfare program on the books by not voting for this bill.

In the meantime, we have some amendments. We are about to cast votes on two of them that I have sponsored and one that Senator HARKIN sponsors, a second-degree amendment, and I strongly oppose his amendment.

In a few short minutes, I am going to attempt to help my colleagues separate fact from fiction. What I share with my colleagues is not just my opinion. It is either backed by independent sources or is the learned conclusion of those who have spent a great deal of time studying the questions of maritime subsidies.

First, let me direct the attention of my colleagues to two lead editorials that were included in today's Wall Street Journal on the one hand and today's Journal of Commerce on the other, and I placed copies on your desks. Both the Wall Street Journal and the Journal of Commerce expressed strong opposition to the subsidy bill before the Senate. Remember, these are opinions of journals that are the voices of business and transportation. They oppose this corporate welfare proposal.

My colleagues should also know that the Citizens for a Sound Economy, a grassroots organization representing hundreds of thousands of Americans, are key voting my fair and reasonable rate amendment and my antilobbying amendment. Those key votes are used for their Jefferson award.

We also have Citizens Against Government Waste backing my amendments and key voting those as well.

We have the National Taxpayers Union using these amendments for their annual vote analysis.

These groups, as well as Americans for Tax Reform, all oppose this underlying legislation, which is a $1 billion corporate welfare subsidy bill.

Does our national defense, as is purported by the managers of this bill, depend upon the 47 U.S.-flag vessels that are asking for a $100 million subsidy per year? A former Bush administration official, Assistant Secretary of Defense Colin McMillan, said the answer to that question is "No." He said that the issue of U.S. carriers reflagging is not a national security issue and, therefore, should be viewed in terms of economics. That is an Assistant Secretary in the last Republican administration.

Then on the other side of the aisle, most recently Cabinet heads in the Clinton administration studied this issue and made recommendations to the President on whether or not to continue subsidies. Every Senator had in his office last week a copy of the Rubin memo to President Clinton. Again, these are conclusions based upon President Clinton's Cabinet officials, their conclusions by Democratic officials, and they are not my conclusions. They said it amounts to a jobs bill to pay for high-price seafarers. Those are the conclusions from that memo.

Mr. President, as I stated last week, a number of retired admirals who earlier lent their names to an American Security Council letter endorsing this legislation—now that they have the benefit of the Rubin-Clinton memo—support my amendments to this bill and, in fact, believe further hearings should have been held before we pass such legislation. Again, those are retired admirals, not this Senator from Iowa.

To my colleague from Iowa, for his amendment and my opinion on that amendment—I suppose I gave that opinion last week, but I owe it to my colleague to state here now for a short period of time, my position.

My colleague from Iowa said that he doesn't want to sell out our merchant marines. Nobody wants to do that, but I think there is a bigger issue here, and that bigger issue is whether or not, with this corporate welfare subsidy, we will be in the process of selling out the taxpayers.

Our No. 1 responsibility is to the taxpayers of America. If my colleague from Iowa succeeds in substituting his amendment for mine, all that will be accomplished is that taxpayers will continue to get ripped off so maritime union welfare and corporate welfare will continue to be shoveled out with no restraint. And farmers, who are taxpayers as well, will not be able to ship one extra bushel of food overseas.

Taxpayers get ripped off either way. They get ripped off if the Agriculture Department pays for cargo preference or if the Transportation Department pays for it. The end result is the same. So I strongly oppose his amendment.

Mr. President, why do we need to adopt, then, my amendment that calls for a fair and reasonable compensation? Fair and reasonable. Who can argue with that?

That supposedly is the rationale now for all of these rates, but the bottom line of it is that the maritime industry defines what is fair and reasonable. If we don't adopt this amendment, then these subsidized carriers will collect $100 million per year from this bill and then routinely gouge taxpayers to the tune of $600 million per year.

This figure of $600 million per year is established by the Federal agencies and by the Office of Management and Budget. It is reported every year in the President's budget, and I placed a copy of this information in last Friday's RECORD.

Again, $600 million in backdoor cargo preference subsidies is not CHUCK GRASSLEY's estimate, it is the actual figures provided by the Office of Management and Budget.

If we protect taxpayers from price gouging under Buy America laws, then why shouldn't we do likewise under cargo preference laws?

So my amendment then, does that. It takes the Buy America market test of 6 percent and, like Buy America, says that if a Government agency is charged by a U.S.-flag carrier more than 6 percent what the market bears or, in other words, what a foreign flag might offer, then that agency can hire the foreign flag.

For years, we have been assured that taxpayers are protected by existing law that states a bid has to be a fair and reasonable rate, but Congress never defined this term and, instead, left it to the Maritime Administration, which cares not for the taxpayers.

If you can have the U.S. flags charge 400 percent over a foreign flag bid, the Maritime Administration may state that this is a fair and reasonable bid and that agency has to accept that bid. It has happened.

The PRESIDING OFFICER (Mr. GORTON). The Senator has used the original 10 minutes.

Mr. GRASSLEY. How much time does the Senator from Colorado want?

Mr. BROWN. I would like at least 2 minutes.

Mr. GRASSLEY. I will yield myself 1 minute, and then when I sit down, I will yield the remainder of my time to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I remind everybody who says that this is necessary for our national defense, to remember that U.S. News & World Report article in 1990 entitled "Unpatriotic Profits." It reported how the Navy was being forced to pay U.S.-flag carriers $70,000 to ship what could have gone on foreign flags for just $6,000.

This was during the Persian Gulf war. It was because our cargo preference laws are out of control. My amendment will take care of this.

If my amendment does not pass, we will see the same abuses the next war that we face. Nothing in this bill defines fair and reasonable rates. My amendment does define what is fair and reasonable in the very same way we have defined it in the Buy America. I yield the rest of my time to the Senator from Colorado.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I hope Members, as they vote on this measure, will keep a couple of things in mind that I think are critical. One is this measure does not attempt to do away with the buy-America preferences that have existed in the law. It keeps those. What it does do, Mr. President, is define what fair and reasonable is.

In the past, literally, the Department of Transportation has looked at rates that have been 100 percent, 200 percent, 300 percent, 400 percent above what is available on the market and called those reasonable and fair. Mr. President, that is simply ludicrous. Charging double or triple what your competitor charges is not reasonable and fair. We do not kid anyone when we allow that sort of thing to go ahead. It is a scandal on the American taxpayers to have them stuck for two and three and four times as much what reasonable rates are.

The second point I hope Members will look at is this: One of the good arguments that have been made for those who defend the existing system is that, on occasion, what they are comparing is apples and oranges; that is, the higher rates that have been talked about at times—not always, but at times—sometimes have been in circumstances where you could not unload the cargo and it was not an apples-to-apples comparison.

The Grassley amendment, very importantly, is defined in such a way so that it allows the Secretary to take into consideration those other conditions that may exist. In other words, the Grassley amendment is an apples-to-apples comparison. It is a fair comparison. It is not an unreasonable comparison. It meets directly the arguments in opposition that the opponents of these measures in the past have made.

Mr. President, I simply close with this thought. How can we say to the taxpayers of this country that we are looking out for their interests when we allow them to get stuck for two and three times as much as what the real rate is on these kinds of cargoes? I yield the floor, Mr. President, and urge the adoption of the Grassley amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. Four minutes forty-eight seconds.

Mr. HARKIN. Four minutes forty-eight seconds?

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Mr. President, again, I would just point out under the amendment of my colleague from Iowa, money that would go to pay for the ocean freight differential would still come out of the Agriculture budget, out of food aid. That is what I am basically opposed to, having it come out of Agriculture. It is a 6-percent limitation that my colleague has in his amendment, but any higher costs of U.S.-flag ships would still come out of Agriculture. I do not think it ought to. I think the money for the ocean freight differential ought to come out of the Department of Transportation. That is what my amendment does.

Again, I hear all of these comparisons of shipping rates. My friend from Colorado, and of course my esteemed colleague from Iowa, have all these comparisons, but these are based on artificially low foreign rates subsidized by foreign governments, or rates for ships that operate without having to comply with the operating standards that apply to U.S.-flag vessels. So these kinds of comparisons may seem appealing, but they do not reflect a fair or accurate representation of the factors involved in the rates charged by U.S. ships.

For example, our people are paid higher wages, our ships have to follow stronger and stricter environmental standards and our ships have to meet stricter working conditions and occupational health and safety requirements. None of these considerations is taken into account by the amendment of my colleague from Iowa. I keep pointing out that workers on U.S.-flag ships, U.S. citizens, pay Federal, State and local taxes. In fact, I am informed that existing Federal and State income tax requirements alone nearly double the cost of U.S.-citizen crews to U.S.-flag operators. Well, where do they pay those taxes? They pay those taxes here in America.

Mr. President, let me also point out that there currently are limitations in place on the rates that U.S.-flag vessels may charge for hauling cargo preference shipments. For non-defense cargoes, for example, by law preference is given to U.S.-flag vessels only when such vessels are available at "fair and reasonable rates," which are determined by an OMB-approved method based on detailed cost information submitted by American flagship operators. If U.S.-flag vessels are not available at fair and reasonable rates, they are not awarded the cargo, and foreign vessels may be used.

In summary, I again point out that what my amendment seeks to do is to shift any higher costs of using U.S.-flag ships out of Agriculture to the Department of Transportation where it rightly belongs. I do, however, strongly support keeping U.S. jobs here in this country. I strongly support making sure that we support a maritime industry in this country and make sure it is there for us when we need it in periods of national emergency. I ask support for my amendment to shift those costs to DOT. I yield the floor and the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Iowa yield back his time?

Mr. GRASSLEY. How much do I have?

The PRESIDING OFFICER. One minute twenty-three seconds.

Mr. GRASSLEY. Yes. I yield back.

The PRESIDING OFFICER. Under the previous order, there is 1 minute now reserved for the Senator from Hawaii and 1 minute for the Senator from Alaska.

Mr. INOUYE. Mr. President, in June 1992 the Journal of Commerce had an editorial in support of this program, this bill. In March 1994, a much stronger editorial was found in the Journal of Commerce supporting this measure before us. In 1995, the Journal of Commerce was purchased by the Economist, a British publication, and now in 1996 we find that the Journal of Commerce is opposed to this measure before us.

Mr. President, I ask unanimous consent that a letter dated May 2, 1996,

from Assistant Secretary of the Navy John W. Douglass supporting this measure be printed in the RECORD.

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

THE ASSISTANT SECRETARY OF THE NAVY, RESEARCH DEVELOPMENT AND ACQUISITION,
Washington DC, May 2, 1996.

Hon. TRENT LOTT,
Seapower Subcommittee, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: During the recent Senate Armed Services Committee Seapower Subcommittee hearing on Navy Surface Ship Programs, you requested a review from the Navy on the pending Maritime Reform and Security Act legislation. I have reviewed this bill, and strongly support the establishment of an active fleet of militarily useful, privately owned, U.S.-flagged vessels for our nation's defense, and provisions that strengthen our vital U.S. maritime industrial base and Merchant Marine.

This bill is important in helping the U.S. maintain a strong and responsive defense posture. Through the Emergency Preparedness Program, the Navy will have access to vessels during times of war or national emergency thereby enhancing the readiness of our seagoing forces.

I also view the Maritime Reform and Security Act as important legislation in supporting U.S. shipbuilders. First, the bill's preference for including U.S.-built ships and the requirement to notify U.S. shipbuilders of the intent to contract for new construction work should help to promote the stability of shipbuilders supporting the Navy. Second, the vessel eligibility provision setting limits on the age of vessels in the fleet will contribute to new construction orders and maintain a younger, safer fleet. Third, the bill's provisions that facilitate use of Title XI loan guarantees is also important to U.S. shipbuilders.

It is paramount that U.S. shipbuilders capture a share of the world shipbuilding market to help sustain the viability of this important industry for the Navy's future and to benefit the Navy by reducing new construction costs. The success of U.S. shipbuilders in commercial markets is inextricably linked to programs such as Title XI.

I appreciate the opportunity to provide you with comments on this imporant maritime legislation. A similar letter has been sent, as a courtesy, to Senator Pressler, Chairman of the Committee on Commerce, Science, and Transportation. As always, if I can be of any further assistance, please let me know.

Sincerely,

JOHN W. DOUGLASS.

Mr. INOUYE. Mr. President, I also ask unanimous consent that a letter dated April 9, 1996, from Deputy Secretary of Defense John White, supporting this measure be printed in the RECORD, along with a letter from the Secretary of Transportation, the Hon. Federico Peña, supporting this measure.

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

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, April 9, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Senate may consider H.R. 1350, the Maritime Security Act, in the very near future. I want to dispel any questions or concerns about the position of the Department of Defense with respect to this legislation. The Department of Defense supports fully H.R. 1350. the establishment of a Maritime Security Force, particularly, will greatly enhance the maintenance of an adequate sealift capability.

Thank you for the opportunity to comment.

Sincerely,

JOHN WHITE.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 23, 1996.

Hon. DANIEL K. INOUYE
U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: At your request, I am writing to present the Administration views on Senator Charles E. Grassley's amendments to H.R. 1350, the Maritime Security Act of 1995. The Administration strongly supports Senate passage of H.R. 1350 without amendment when the Senate votes on this bill on September 24, 1996. Early enactment of this legislation is important to national security. The Administration takes no position on the merits of these amendments at this time.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the submission of this report.

Sincerely,

FEDERICO PEÑA.

Mr. INOUYE. Mr. President, although the Harkin measure has much merit, I must advise my colleagues that we have not had a hearing on this measure. If that amendment is made part of the bill, I feel that at this lateness it might be the death knell of the measure. So I move to table.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator from Alaska yield his time?

Mr. STEVENS. No. I was asking for the yeas and nays on the motion of the Senator from Hawaii to table.

The PRESIDING OFFICER. A motion to table is not debatable. It is not in order at this point until the Senator from Alaska has used or yielded his time. The motion to table is not in order until the Senator from Alaska has used or yielded his time.

Mr. STEVENS. That was not the understanding at the time we were going to make it. We are going to have one vote on Senator HARKIN's amendment and then a separate vote on this one. We were going to make the motion to table and vote. However the Chair wishes to do it—go back and read the RECORD—that is not the understanding. In any event, I will take my minute on the Grassley amendment, not the Harkin amendment, so we understand.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STEVENS. This amendment would affect the rates for carriers of all Government cargoes, not just the rates set for cargo preference on agricultural cargoes. I remind my friends from Iowa, both of them, that we put $10 billion into agricultural subsidies a year. We are talking about here in this bill reducing the cost of keeping this merchant marine available for our Department of Defense from $200 million a year to $100 million. For 10 years we will get it to $100 million.

Senator GRASSLEY's plan is unnecessary. Existing law already allows the military use of foreign-flag vessels if the U.S. carriers' rates are excessive or otherwise unreasonable or if they are higher than the charges for transporting like goods for private persons.

In terms of cargo preference, the law already provides the rates must be fair and reasonable for cargo preference. As I stated Friday, this amendment will result in the loss of the majority of the U.S.-flag fleet. We need that for national defense.

I point out that during the Persian Gulf war, the charge for the foreign ships averaged $174 per short ton and for the domestic fleet it averaged $122 per short ton. We are preserving a merchant marine fleet for our defense purposes.

I move to table the Senator's amendment.

Mr. INOUYE. Mr. President, I move to table the Harkin amendment.

Mr. STEVENS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Harkin amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—89

Abraham	Coats	Ford
Akaka	Cochran	Frahm
Ashcroft	Cohen	Frist
Bennett	Coverdell	Glenn
Biden	Craig	Gorton
Bingaman	D'Amato	Graham
Bond	Daschle	Gramm
Boxer	DeWine	Grams
Bradley	Dodd	Grassley
Breaux	Domenici	Gregg
Bryan	Exon	Hatch
Burns	Faircloth	Hatfield
Byrd	Feingold	Helms
Chafee	Feinstein	Hollings

Hutchison	Lugar	Rockefeller
Inhofe	Mack	Roth
Inouye	McCain	Santorum
Jeffords	McConnell	Sarbanes
Johnston	Mikulski	Shelby
Kassebaum	Moseley-Braun	Simpson
Kempthorne	Moynihan	Smith
Kennedy	Murkowski	Snowe
Kerry	Murray	Specter
Kohl	Nickles	Stevens
Kyl	Nunn	Thomas
Lautenberg	Pell	Thompson
Leahy	Pressler	Thurmond
Levin	Pryor	Warner
Lieberman	Reid	Wyden
Lott	Robb	

NAYS—9

Baucus	Conrad	Kerrey
Brown	Dorgan	Simon
Bumpers	Harkin	Wellstone

NOT VOTING—2

Campbell	Heflin

The motion to lay on the table the amendment (No. 5396) was agreed to.

TRIBUTE TO SENATOR SIMON

Mr. DASCHLE. Mr. President, to say that the senior Senator from Illinois, Senator SIMON, has influenced us all is an understatement. Our dress today is a recognition of his influence on all of us and our great admiration for him personally.

I would like to announce that following the vote many of us will participate in a tribute to Senator SIMON. I invite all of our colleagues to join Senator MOSELEY-BRAUN, Senator MACK, and many of us in that tribute. We will not do it now. We will do it later. In the meantime, we will all enjoy wearing these great bow ties.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KYL. Mr. President, I rise to support the amendments being offered by Senator GRASSLEY and to express my concerns about this bill. Members of the 104th Congress have tried their best to eliminate pork-barrel spending and corporate welfare. I believe we have made some progress, but clearly, as this bill demonstrates, we have a long way to go.

I support the amendments offered by my colleague from Iowa because this bill is nothing more than a taxpayer subsidy. It authorizes $100 million per year for the maritime fleet to provide sealift capacity in times of national emergency. Each vessel in the program would receive $2.1 million per year for being enrolled in the program. This does not include the additional moneys that may be paid in times of war. The CBO estimates that the program will cost $782 million in the first 5 years, including expenditures for the phasing out of the old system.

The bill has several problems. First, it does not allow the United States to requisition subsidized U.S. ships in a national emergency. It would allow U.S. flag-carriers to protect specific vessels from shipping materials to a war zone. If commercial interests determine which vessels go and when, we should pay them on an as-needed basis. We shouldn't pay for a benefit we don't receive.

Second, the bill does not require those seafarers who are in the Maritime-Security fleet to serve when called. During the Persian Gulf war, our country had to draw from a pool of retired merchant mariners to care for our fleet. That is wrong and it should be changed.

Under this program, merchant mariners can earn more money than their military counterparts for war-time pay. The bill should be corrected to make merchant-mariners bonuses commensurate with those of the Army, Navy, Air Force, and Marines. I have been told of one merchant mariner who was paid thousands of dollars for a few months worth of service during the Persian Gulf war. Most enlisted military officers received far less than that.

Finally, the bill must require those carriers who receive a taxpayer subsidy to carry war materials into the war zone. The maritime fleet must not be allowed to drop off war materials to commercially convenient spots. If the taxpayers are paying for this service, then it is our duty to ensure that they receive what they are paying for.

Mr. President, the defects of the bill are not figments of the imagination conjured up by a few budget hawks. The Vice President's National Performance Review recommended that all maritime subsidies be ended for a savings of $23 billion over a 10-year period. The Department of Transportation's inspector general concluded that the entire Maritime Administration and all of its U.S.-flag subsidies should be terminated. The Office of Management and Budget estimates that international cargo preference laws will cost Federal Government agencies an additional $600 million in fiscal year 1996. A November 1994 GAO report said that cargo-preference policies support at most 6,000 of the 21,000 mariners in the U.S. merchant marine industry. That is an annual cost of $100,000 per seafarer—at taxpayer expense. Additionally, Citizens Against Government Waste, the National Taxpayers Union, and Americans for Tax Reform are opposed to the bill.

The Federal debt is more that $5 trillion. Five years ago, the debt was $3.6 trillion. Clearly, Government spending is out of control and Congress must place priorities in the way it spends taxpayer dollars. Most families live under a budget. Most have a limited amount of resources that they must spend on food, clothing, shelter, and the like. And many families have little left over for the extras in life. They don't spend for every whim because they know that they must stay within their means. Why can't Congress do the same? Why can't Congress spend the people's money on core tasks only. Why can't Congress forgo the extras?

It will take a colossal effort to control the Government's debt. But every long journey begins with the first step. I urge my colleagues to take that first step and vote against this bill. I thank the chairman and ranking member for the opportunity to express my concerns.

Mr. STEVENS. Mr. President, there are three votes remaining. One is the Grassley amendment. There is a second Grassley amendment, and then final passage, hopefully, on the bill.

I ask unanimous consent—this has been cleared—that each of these votes be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The yeas and nays have not been ordered.

AMENDMENT NO. 5393

Mr. STEVENS. I move to table the Grassley amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Iowa. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—65

Akaka	Feinstein	Mack
Bennett	Ford	Mikulski
Biden	Frist	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Gorton	Murkowski
Bradley	Graham	Murray
Breaux	Harkin	Nunn
Bryan	Hatch	Pell
Byrd	Hatfield	Reid
Chafee	Hollings	Robb
Cochran	Hutchison	Rockefeller
Cohen	Inouye	Santorum
Conrad	Jeffords	Sarbanes
Coverdell	Johnston	Shelby
D'Amato	Kennedy	Simon
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Lautenberg	Stevens
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wyden
Feingold	Lott	

NAYS—33

Abraham	Gramm	McCain
Ashcroft	Grams	McConnell
Baucus	Grassley	Nickles
Bond	Gregg	Pressler
Brown	Helms	Pryor
Bumpers	Inhofe	Roth
Burns	Kassebaum	Simpson
Coats	Kempthorne	Smith
Craig	Kohl	Thomas
Faircloth	Kyl	Thompson
Frahm	Lugar	Wellstone

NOT VOTING—2

Campbell	Heflin

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, may we have order now? We have one more vote.

AMENDMENT NO. 5394

The PRESIDING OFFICER. Under the previous order, there will be 1 minute for the proponents of the amendment and 1 minute for opponents of the amendment, followed by a vote.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, my amendment says that H.R. 1350 subsidies, and that is $1 billion in total, cannot be used for campaign contributions, cannot be used for lobbying and cannot be used for so-called public education. Congress has supported similar restrictions on different bills and programs in the past, but we have no such restrictions for this $1 billion subsidy in this bill.

It was suggested last week that we provide for this. It could be done by a line item. If that is what is wanted, then I suggest to the proponents to put that in the bill, but it isn't in the bill.

So, consequently, I think we should make sure we don't allow these funds to be back-doored by the Maritime Administration for campaign contributions and for lobbying. Without this restriction, that is not certain.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, there is a Corrupt Practices Act. As a matter of fact, the $10 billion paid out of agricultural subsidies has no similar provision. This amendment is unnecessary. It is a killer amendment trying to convince Members to vote for amendments so the bill will go back to the House and die.

The purpose of this bill is to save $100 million a year and to continue the program of keeping the merchant marine available for the United States in time of emergency. It will cost $100 million a year for 10 years under this bill, not $1 billion, as that article on your desks says; $100 million a year for 10 years.

I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment No. 5394. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—50

Akaka	Ford	McCain
Bennett	Frist	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Gorton	Moynihan
Breaux	Graham	Murray
Bryan	Hatfield	Pell
Chafee	Hollings	Pryor
Cochran	Inouye	Reid
Cohen	Jeffords	Robb
Coverdell	Johnston	Rockefeller
D'Amato	Kennedy	Sarbanes
Daschle	Kerrey	Specter
DeWine	Leahy	Stevens
Dodd	Levin	Thurmond
Dorgan	Lieberman	Wellstone
Exon	Lott	Wyden
Feinstein	Mack	

NAYS—48

Abraham	Frahm	Lugar
Ashcroft	Gramm	McConnell
Baucus	Grams	Murkowski
Bond	Grassley	Nickles
Boxer	Gregg	Nunn
Bradley	Harkin	Pressler
Brown	Hatch	Roth
Bumpers	Helms	Santorum
Burns	Hutchison	Shelby
Byrd	Inhofe	Simon
Coats	Kassebaum	Simpson
Conrad	Kempthorne	Smith
Craig	Kerry	Snowe
Domenici	Kohl	Thomas
Faircloth	Kyl	Thompson
Feingold	Lautenberg	Warner

NOT VOTING—2

Campbell	Heflin

The motion to lay on the table the amendment (No. 5394) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, America has relied upon its merchant marine, ports and maritime industries for both trade and defense since colonial days.

Today, we will vote to ensure that America will continue its maritime community into the 21st century.

Today, we recognize that America as a nation must make an investment in its maritime infrastructure.

Today, we will vote for a program which is an efficient and flexible policy that will allocate scarce public resources in a responsible manner.

This program will also guarantee that our Nation will have trained Americans to crew these vessels as well as the Department of Defense's pre-positioned and Ready Reserve Fleet.

This program will significantly reduce the cost of the Federal maritime operating assistance programs. We are talking about cutting the funding in half.

This program will eliminate outdated and unnecessary rules and regulations which limits and restricts the ability of U.S. flag vessels to compete and modernize their fleets.

I want to take just a moment and recognize the hard work of Congressman HERB BATEMAN and Senators STEVENS, INOUYE, HOLLINGS and BREAUX.

This has been a real team effort. These Members of Congress were actively involved in crafting and advancing this legislation. The journey for maritime reform started over two decades ago.

This particular bill has been on a 9-year legislative trip with over 50 hearings. Its time has come.

I also want to recognize the work of staff who assisted the process: Rusty Johnston, Jim Schweiter, and Bob Brauer of the House's National Security Committee; Earl Comstock of Senator STEVEN's staff; Jim Sartucci and Carl Bentzel of the Senate's Commerce Committee; and Margaret Cummisky of Senator INOUYE's staff.

The full Senate has devoted nearly two full days for a spirited dialogue on this legislation. And, the Senate has considered a wide range of amendments. The bill is ready for vote on final passage.

I stand here today on the Senate Floor and proudly ask my colleagues to support the Maritime Security Program to guarantee that our Nation will have the nucleus of a modern, militarily useful active commercial vessels sailing under the American flag.

This vote will ensure that whenever the United States decides to project American forces overseas for either an emergency or national defense, there will be a maritime lifeline. I firmly believe that Congress has a duty and responsibility to guarantee that a real and viable maritime lifeline is maintained and provided.

We are the world's only remaining superpower and we have global interests and responsibilities. A healthy maritime community is essential for this role.

I stand here today representing a bill that enjoys wide and deep bipartisan support. It deserves your support and your vote.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

The bill was read the third time.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. My information is, this is the last vote. After that last courageous vote, I hope that all Members will remember this is national defense—national defense—keeping ships available for emergencies, saving $100 million a year. I urge the Senate to vote positively on this bill. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Colorado [Mr. CAMPBELL] is absent due to illness.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

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

The result was announced—yeas 88, nays 10, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—88

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frahm	McConnell
Baucus	Frist	Mikulski
Bennett	Glenn	Moseley-Braun
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Gregg	Nunn
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Brown	Hatfield	Pryor
Bryan	Helms	Reid
Bumpers	Hollings	Robb
Byrd	Hutchison	Rockefeller
Chafee	Inhofe	Santorum
Cochran	Inouye	Sarbanes
Cohen	Jeffords	Shelby
Conrad	Johnston	Simon
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
D'Amato	Kennedy	Snowe
Daschle	Kerrey	Specter
DeWine	Kerry	Stevens
Dodd	Kohl	Thurmond
Domenici	Lautenberg	Warner
Dorgan	Leahy	Wellstone
Exon	Levin	Wyden
Faircloth	Lieberman	
Feingold	Lott	

NAYS—10

Burns	Kyl	Thomas
Coats	Lugar	Thompson
Grams	Nickles	
Grassley	Roth	

NOT VOTING—2

Campbell	Heflin

The bill (H.R. 1350) was passed.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, once again I want to commend two of the most outstanding bill managers we have in the U.S. Senate, the great Senator from Alaska, Senator STEVENS, and the great Senator from Hawaii, Senator INOUYE. They have done yeoman's work on this bill and bills last week. So we are looking for another hard job for them to do that we will call on them to do before this week it out. Thank you very much for getting this bill passed.

JAN PAULK

Mr. LOTT. Mr. President, in the weeks ahead, as the 104th Congress comes to a close, we will be paying tribute to several of our colleagues, from both sides of the aisle, who, for one reason or another, will be leaving the Senate at the end of this year. But it is not only our fellow Members who will be missed.

The Senate will soon lose one of its longest-serving staffers, someone who has become a veritable institution within this institution.

I am referring to Jan Paulk, our Director of Interparliamentary Services. She has held that position since it was first created in 1981, and her exemplary performance in that post has defined its role in the life and the activities of the Senate.

Jan came to the Senate from Russellville, AR, a graduate of the University of Arkansas, and joined the staff of the Foreign Relations Committee under its then chairman, William Fulbright.

Her background in international matters made her a natural to head up our office of Interparliamentary Services.

In that capacity, she has been responsible for the administrative, financial, and protocol aspects of all our interparliamentary conferences. She has overseen all of the Senate's delegations traveling abroad with leadership authorization.

In short, she has been the Senate's combination of travel office and Department of State, part tour guide, part Chief of Protocol, part guardian angel to congressional families overseas.

Most Members of the Senate will have their own memories of Jan's helpfulness and thoroughness.

When things have gone smoothly for us at an international conference, we knew it was because of her meticulous planning. And when an unforeseen problem arose, we knew we could count on her combination of tact and toughness to straighten it out.

Jan has helped to plan countless visits to the Capitol by heads of state and heads of government.

As every Senator knows, these are not merely ceremonial affairs. They usually involve extremely serious matters of international commerce and diplomacy.

They can advance, or retard, our country's interests abroad, and are an important part of the Senate's special constitutional role in our Nation's foreign policy.

To put this tactfully, such visits are not always easy to arrange, but we could always rely on Jan to smooth things out before they could get rocky.

We all wish Jan well as she retires from the Senate. I know I speak, not only for our colleagues, but for our spouses as well, in wishing she were not leaving us.

We will miss her greatly.

And some of us will be sure to get her forwarding number in the confident assurance that, when we run into a particularly difficult problem, she will still be ready to lend a hand.

I want to take this opportunity to thank her, both for Tricia and myself, not just for her years of service, but for her calm in the face of crisis, her cheerfulness in the face of gloom, and for the way she gave real meaning and spirit to what we call the Senate family.

Mr. DASCHLE. Mr. President, I rise to say thank you to a woman who has been a good friend of the Senate, a good friend to Linda and me, and most importantly a good ambassador for our country, Jan Paulk.

Fifteen years ago, when then majority leader Howard Baker created the Senate's Office of Interparliamentary Services, he asked Jan to head it. She has been doing that job and doing it well ever since. You might say Jan is the Senate's youngest institution.

I am sure I speak for all of my colleagues when I say we will miss Jan's professionalism when she leaves us soon to take on a new challenge as head of Tulane University's new Asia Foreign Leadership Program.

Jan grew up in Russellville, AR, population 8,000. She first came to Washington as a high school senior. She had won an essay contest at her high school. First prize was a trip to Washington and $100 in spending money. She knew the first time she saw Washington that she wanted to make a career here in Government. She did return after college to work for Senator William Fulbright, first as a file clerk and then an assistant scheduler. She left Washington briefly to earn a master's degree in theater from Columbia University. To anyone who mistakenly suggests that theater was a successful diversion, Jan is quick to point out that there is a lot of theater in politics.

Jan returned to the Senate in 1971 as editor for the Senate Foreign Relations Committee and spent 3 years editing the landmark war powers hearings.

In 1974, she was put in charge of travel and protocol for the committee, and in 1981, when Senator Baker created the Office of Interparliamentary Services to handle those same functions for

the entire Senate, he asked Jan to head it. As director of Interparliamentary Services, Jan has overseen the Senate's official foreign travel—a tough job that requires the stamina of an advance person, the poise of an Ambassador.

She and her small IPS staff handle every detail, from arranging the transportation to coordinating with host governments to making sure Senators understand local customs.

Jan's work has taken her to more than 100 countries in every continent on Earth where she has represented not only this body but this Nation as well. She visited the former Soviet Union in 1975 with Senators Hubert Humphrey and Hugh Scott, the first time a congressional delegation had ever visited the Soviet Union at the invitation of the Supreme Soviet.

She visited China in 1979 with Senators Frank Church and Jacob Javits. She visited the gulf states just before the gulf war, and she returned just after the war while oilfields were still burning. And in June 1994, Jan coordinated the largest ever overseas delegation when 22 Senators traveled to Normandy to commemorate the 50th anniversary of D-day.

One trip I will always remember is the trip to Bosnia last April when Jan arranged for me and Senators HATCH and REID to attend functions and to visit the land that we had not yet visited following the war. We went to assess progress in implementing the Dayton peace accords. What promised from the start to be a difficult trip became immeasurably more difficult the morning we were to leave when the plane carrying Secretary Ron Brown and 34 others slammed into the ground in Dubrovnik.

Jan's professionalism helped us get through that trip. And in caring on, we were able to show the world that America's commitment to peace in the former Yugoslavia is unwavering.

Closer to home, she has helped welcome every head of State who has visited the Senate over the last 19 years.

In her 27 years in the Senate, Jan Paulk has worked for Democrats and she has worked for Republicans. She has served both with equal professionalism and skill. Most of all, she has served her Nation, and, for that, we are all grateful. Linda and I and all of our colleagues, I know, wish Jan the very best in her new challenge.

Mr. President, I yield the floor.

TRIBUTE TO SENATOR PAUL SIMON

Mr. LOTT. Mr. President, I know others will be commenting on this later on, but I was delighted to be one of those who wore a bow tie this afternoon in honor of our great friend and great Senator from the State of Illinois. The bow tie has sort of become his symbol, but he also is just one of the finest Senators, one of the finest men that we have serving in the U.S. Senate.

I have enjoyed working with him over many years. I have served with him here in the Senate. I have been on committees with him. I have found him to be a Senator who will stand for principle, and sometimes that means standing with Members of the Senate on the other side of the aisle. He truly will be missed as he goes back to his beloved State of Illinois. I am sure he will do many, many productive things in the future as he has in the past, as Lieutenant Governor of his State.

He is a very thoughtful Senator. This was just a little bit of levity today, as we all wore our bow ties in honor of PAUL SIMON. But it was a great symbol of affection that we have for a Senator we have enjoyed so much, and who we will miss as he goes back to Illinois.

MORNING BUSINESS

Mr. LOTT. Mr. President, I now ask unanimous consent that there be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

MEASURE READ THE FIRST TIME—SENATE JOINT RESOLUTION 63

Mr. LOTT. Mr. President, I send a joint resolution to the desk, which is a continuing resolution containing appropriations for Defense, Foreign Operations, Treasury-Postal, Labor-HHS, Interior and Commerce, State, Justice. I ask its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Mr. LOTT. I now ask for the second reading of the joint resolution and, on behalf of my Democratic colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I believe the resolution will be set aside and read a second time on the next legislative day, is that correct?

The PRESIDING OFFICER. The Senator is correct.

ADJOURNMENT

Mr. LOTT. Mr. President, I now ask unanimous consent the Senate stand in adjournment for 1 minute and, upon reconvening, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day.

There being no objection, at 6:36 p.m., the Senate adjourned until 6:37 p.m. the same day.

The Senate met at 6:37 p.m., and was called to order by the Honorable MIKE DEWINE, a Senator from the State of Ohio.

MEASURE PLACED ON THE CALENDAR—SENATE BILL 2100

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (S. 2100) to provide extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

Mr. LOTT. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the Calendar of General Orders.

MEASURE PLACED ON THE CALENDAR—SENATE JOINT RESOLUTION 63

The PRESIDING OFFICER. The clerk will read the joint resolution for the second time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 63) making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

Mr. LOTT. I object to further consideration of the joint resolution at this time.

The PRESIDING OFFICER. The joint resolution will be placed on the Calendar of General Orders.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY VA-HUD APPROPRIATIONS BILL

Mr. LOTT. Mr. President, I ask unanimous consent that once the Senate receives from the House the conference report to accompany the VA-HUD appropriations bill that the conference report be considered and agreed to, the motion to reconsider be laid upon the table, and any statements in connection with the conference report be printed in the RECORD.

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

Mr. BOND. Mr. President, it is my pleasure to present to the Senate the conference agreement on the VA, HUD, and independent agencies appropriations bill for fiscal year 1997. I'm especially pleased that this final step in congressional consideration of this measure is occurring prior to start of the fiscal year. Furthermore, we anticipate this measure will be separately signed into law and not become part of another continuing resolution,

which has become quite a distinction for a major appropriations bill in this Congress.

I would note that it is especially critical that we enact this bill immediately to avoid potential delays in processing of veterans disability compensation and pension checks. In addition, prompt enactment is necessary to prevent potential disruption in other critical governmental functions such as the sale and processing of Federal flood insurance policies and financing of VA and FHA mortgages.

Mr. President, much of the recent attention paid to this bill has been over disposition of the three major health issues riders added during Senate floor debate: the Domenici-Wellstone mental health parity provision; the Bradley-Frist maternity health care amendment; and the spina bifida VA entitlement. While our appropriations conferees can't take credit for it, we are nonetheless pleased that at our urging the House and Senate legislative committees of jurisdiction, on a bipartisan basis, worked out agreements on these very substantial policy issues which are incorporated in our conference agreement. Moreover, at our urging, each of these legislative proposals now have delayed effective dates which permit a final legislative review in the next session of Congress, prior to implementation.

Mr. President, beyond serving as a vehicle for these major health policy provisions, the underlying measure is itself the largest non-defense discretionary appropriations bill, with nearly a third of the Government-wide total. Its critical role in establishing program levels and direction for the environment, housing and community development, veterans health programs, and science and technology is the reason why Congress and the White House took so long to reconcile our differences during this past year.

These are major funding issues which reflect profound policy disagreements. None of us, however, want to repeat the long delays and frustrations we experienced during the past year of being unable to enact this critical funding measure. We have attempted to avoid reopening past disagreements and controversies which blocked this bill last year.

Our effort to facilitate this measure has meant that this bill, in a number of respects, reflects funding levels and policies which are compromises between very different viewpoints. One example is the inclusion of funds at the 1996 enacted level for the Corporation for National and Community Service. I, and many others, continue to have strong reservations about this program, but there is no doubt that failure to fund it would result in a Presidential veto. So despite our misgivings, this conference agreement maintains the current level of funding for this program, which continues to be more than I believe warranted, but less than what is requested by the White House. The House agreed with this position of the Senate, despite their previous opposition to providing any funding for continuing this program.

With respect to other agencies funded in this bill, the conference agreement attempts to balance a wide variety of competing interests within a very constrained budget allocation.

The conference agreement provides $17.013 billion for veterans medical care—an increase of $5 million above the President's request and $450 million above the 1996 level. This account received the highest priority in the legislation, and hence the largest increase. The amount provided will ensure that VA will continue to provide care to the 2.8 million veterans currently receiving VA medical services.

The conference agreement also includes $100 million in 1996 supplemental appropriations for veterans compensations and pensions. If the Senate passes this critical legislation no later than today, September 25, these additional funds will ensure that veterans will receive their September checks on time. Delays may result in veterans checks being late.

For EPA, a total of $6.7 billion is included—$184 million more than the fiscal year 1996 amount. This includes approximately $2.9 billion in funds for the States—of which $1.9 billion is for State revolving funds for drinking water and wastewater infrastructure—fully funded at the President's request level. It also provides the President's full request of $1.394 billion for Superfund, to ensure site cleanups are not slowed despite the need to reform the program.

Despite the very compelling arguments made by some members, the conference agreement does not include so-called riders in EPA in view of our desire to keep this legislation as free of controversy as possible.

For FEMA disaster relief, the conference agreement provides $1.32 billion—all of which would become available immediately—to meet the needs arising from hurricanes Fran and Hortense, and other disasters currently on the books. These funds, in addition to the $3.7 billion in previously appropriated disaster relief funds currently available for obligation, obviate the need for a supplemental appropriation for disaster relief at this time.

The conference agreement includes a 1-year extension for FEMA's flood insurance program—so that there is no lapse in FEMA's ability to write flood insurance policies and carry out the flood mapping program. After the recent hurricane disasters, many homeowners are only too familiar with how critical this program is.

For the Department of Housing and Urban Development, the conference recommendation continues the policies and programmatic reforms enacted last year. It was a major disappointment that Congress was unable to enact a comprehensive public and assisted housing reform authorization bill. This appropriations bill, however, contains temporary extensions of provisions needed to halt the ever-increasing cost of housing subsidy commitments and to continue progress in reforming wasteful and ineffective housing and community development programs. Equally important, this bill restructures funding of Department of Housing and Urban Development to eliminate bureaucratic overlap and promote local flexibility and decision making. I hope that the authorizing process will pickup where they left off this year and expeditiously enact these reforms as permanent legislative changes.

Similarly, this appropriations bill contains multifamily housing restructuring proposals which were under consideration by the authorizing committee. We cannot afford to continue the excessive subsidies currently being paid to sustain this inventory of nearly a million apartments for low-income families. Unless Congress acts to reduce the excessive debt of this housing inventory, along with implementing other management improvements, there could be massive defaults and widespread resident displacement.

The complexity and difficulty of developing a consensus on these issues are substantial. Project owners, including limited and general partners, project managers, residents, State housing finance agencies, local community development organizations, bond holders, and municipal governments are among those with significant interests in how we address this issue. These interests, however, frequently are divergent and competing. Of course, we must also be mindful of the billions of taxpayers dollars previously invested in this multifamily housing inventory, and the billions more which are at risk over the next several years depending on which policies and financing mechanisms we select to deal with these issues.

The conference agreement reflects our attempt at finding a reasonable balance between these sometimes conflicting concerns. We cannot afford continuing to pay excessive subsidies for these multifamily housing projects, even those which provide very good housing for low income families. And some portions of this inventory are little more than the slums they were intended to replace. The conference recommendation is not a comprehensive solution. It simply is an attempt to deal with these issues in that fraction of the multifamily inventory that have section 8 contracts which expire during fiscal year 1997. We are acting solely because affirmative action is required

to prevent defaults and potential resident displacement during the fiscal year.

I want to thank the Senator from Oregon, chairman of our full Appropriations Committee, for his support and assistance during our consideration of this bill. Changes in our budget allocation, made on his recommendation, enabled us to provide funding to reduce the potential for displacement of low-income families from currently subsidized housing. With this allocation we were also able to restore funding for the Community Development Block Grants program [CDBG] at the full current fiscal year 1996 funding level of $4.6 billion, and not withhold $300 million from obligation as was proposed in the House-passed bill.

Mr. President, it is very unfortunate that the Senator from Oregon is retiring from the Senate since the funding requirements necessary to maintain subsidized housing are expected to grow even larger over the next several years, and his appreciation of the importance of this investment will be sorely missed. I would note, however, that with his help we have been able to begin weaning this inventory of housing from its continued dependence on heavy Federal subsidies.

The conference agreement for NASA totals $13.7 billion, an increase of $100 million over the House—and adopts the Senate-passed restoration of funds for the Mission to Planet Earth program to study global climate change. The conference agreement also incorporates buyout legislation necessary to facilitate reductions in staffing without resorting to very disruptive reductions-in-force [RIF's]. Also included is transfer authority, similar to that enacted last year, which provides NASA the flexibility to redirect funding within the $2.1 billion total provided for the space station in order to avoid costly delays or schedule slips.

Mr. President, after making adjustments for the necessary replenishment of the FEMA disaster relief account and for enactment of housing legislative savings, the net increase in actual appropriated program levels is only $84 million, or just one-tenth of one percent over the previous year. While an aggregate freeze, the total reflects some substantial increases offset by commensurate decreases for several of our agencies. The biggest increase, $569 million, was provided for discretionary programs of the Department of Veterans Affairs. The only other agencies to receive significant increases were the Environmental Protection Agency, with an $184 million increase, and the National Science Foundation which received $50 million more than last year. These increases were offset by cuts of $625 million in HUD, and $200 million in NASA.

Finally, I want to express my appreciation to the Senator from Maryland for her assistance and cooperation in putting together this bill. We confronted major challenges, not only due to the complexity of some of the programmatic and budgetary issues within our jurisdiction, but also in dealing with some very sensitive policy concerns of a legislative nature. And, as has become an annual concern, we have had to deal with daunting budgetary constraints. She has been invaluable in guiding this difficult bill through some contentious points in the Senate and in conference. Amid the wide ranging issues and concerns we have dealt with in consideration of this bill, she has been steadfast in her determination to get our task accomplished. I am very grateful for all her help.

Mr. President, I would also like to thank the many staff members who also have made a major contribution to consideration of this bill: Sally Chadbourne, Catherine Corson, David Bowers, and Liz Blevins on the minority side; and Stephen Kohashi, Carrie Apostolou, Julie Dammann, Jon Kamarck, and Lashawnda Leftwich on our side.

Ms. MIKULSKI. Mr. President, I am happy to join my distinguished colleague, the Senator from Missouri, to offer for Senate consideration the fiscal year 1997 conference report for the VA–HUD and independent agencies appropriations bill. With $84.7 billion in spending—$20.3 billion in mandatory spending and $64.3 in discretionary budget authority, this is one of the largest and most diverse appropriations measures we must consider.

I am particularly pleased by our ability to achieve compromise on many complicated issues as we worked out this agreement with our colleagues in the House. This bill funds a tremendous diversity of agencies and programs. It is a challenge every year to develop a passable, signable bill that addresses a variety of concerns from all Members of Congress and the American people. By accepting our differences on many of the issues that plagued the VA–HUD and independent agencies appropriations bill last year, and prohibiting environmental riders, we have avoided being included in an omnibus continuing resolution, and Mr. President, to the credit of all involved, we have a signable bill.

Mr. President, I would like to second the urging of Chairman BOND that we move forward with this bill immediately. We need to avoid potential delays in processing of veterans disability compensation and pension checks as well as Federal flood insurance policies. Both matters are addressed in supplemental legislation included in the fiscal year 1997 VA–HUD appropriations bill.

Mr. President, as you know, this bill contains funding for a diverse group of Federal agencies and programs. Yet it also contains three important health care provisions first proposed by the Senate and agreed to by the conference.

I am a proud cosponsor of a measure introduced by Senator DASCHLE to extend benefits to children of Vietnam veterans exposed to agent orange who have spina bifida. This will provide needed support for our veterans' children and their families. I would note to Senator's DASCHLE's credit, that this provision passed overwhelmingly in the Senate, as did the motion to accept it in the House.

Second, our bill includes Senator BRADLEY's newborns health provision, which prevents "drive-through" baby deliveries. Because of this bill, developed with Senator FRIST, insurance companies will no longer be able to force mothers out of the hospital in less than 48 hours after delivery. This is an important measure impacting every American family.

Third, Senators WELLSTONE and DOMENICI's mental health provision prevents discrimination against people with mental illness. When this bill passes, insurance companies that provide coverage for mental health will have to offer the same lifetime cap as they do for other illnesses. We have heard here on the Senate floor stories from Senators about families devastated by insurance discrimination.

Mr. President, the three provisions provide real answers to real problems faced by the American public. They are important components of the health care initiatives that this administration has worked so hard to carry out.

As you can see, this bill is about more than just agencies and programs and budget authority: it is about real people. The bill provides $39.2 billion for the Department of Veterans Affairs, including $17.3 billion for veterans health care, and $20.4 billion for veterans benefits. It ensures that promises made are promises kept to our Nation's veterans.

The bill provides HUD with $19.5 billion, including full funding, at $4.6 billion, for community development block grants. This money is used to provide real economic opportunities for people trying to help themselves—in places like Baltimore, Houston, and Charleston, SC. It funds the President's request for housing for people with AID's, providing desperately needed housing for people living with AID's.

The bill continues a significant FHA multifamily housing mark-to-market demonstration program. While taking on such an ambitious authorization effort for reforming the assisted housing program may be beyond the call of duty for the Appropriations Committee, this provision is the necessary first step toward reducing the excessive debt of the assisted housing inventory while avoiding putting families out on the street. This bill creates opportunities

for the poor—but not hollow opportunities. Instead it reaffirms proper oversight of our Nation's housing programs, while avoiding new and expanded liabilities for the taxpayer.

In addition, the bill continues to streamline the management of the Environmental Protection Agency and encourages EPA to prioritize, focusing its resources on those problems that pose the highest risk to human health and the environment. The EPA is provided $6.7 billion, which is $185 million more than last year. The money will be used to ensure that people across this Nation breathe clean air and drink clean water. Unfortunately, due to limited resources, the bill does not provide the President's full request for environmental programs. In particular, I am concerned about reductions in programs like Boston Harbor, Montreal Protocol, Climate Change, and the Environmental Technologies Initiative. But we did the best we could with the resources we had available.

The bill restores the fiscal year 1996 $1 billion recision from the FEMA disaster relief fund and makes the funds available immediately. This will help families and communities devastated by hurricanes, floods, and other disasters. This is real help for real people, from North Carolina to Maryland to California.

I am particularly pleased that this bill maintains funding for the Corporation for Community and National Service at $402.5 million. National service creates an opportunity structure—community service in exchange for a college education. It encourages volunteerism and rekindles habits of the heart. It fosters the spirit of neighbor helping neighbor that made our country great. National service is about real people offering real help to real communities.

This bill also provides additional funding for the consumer agencies, including $42.5 million for the Consumer Product Safety Commission and $2.3 million for the Consumer Information Center. This is $200,000 more than the President's request.

Mr. President, I am concerned that funding for NASA is $100 million below the President's request. I am concerned that space programs are taking a beating. Reductions in our space budget and our uncertainty about NASA outyear numbers jeopardize ongoing commitments, as well as our ability to fund new and innovative space science programs.

Together with the administration, I plan to discuss the future of our space programs at a national space summit, to be held in December. I urge my colleagues to join the discussions that will take a critical look at how to maintain our preeminent space program, despite huge cutbacks in the overall budget.

Fortunately Mission to Planet Earth was spared the cut it took in the original House bill. Mission to Planet Earth data will be used to help prepare our communities to deal with natural disasters, such as the recent Hurricane Fran which negatively affected thousands of people's lives. Mission to Planet Earth will also give our fishermen better tools to sustain their livelihood and help our farmers decide what and when to plant their crops.

This bill also helps NASA employees and their families. It provides NASA employees buyout authority. We expect the buyout authority to reduce the impact of downsizing on people's lives. Furthermore, the bill protects the jobs for the eastern shore of Maryland at Wallops Island.

Mr. President, this bill is about more than just programs and budget authority. This bill streamlines the Federal Government, yet it protects jobs. This bill provides important health benefits for mothers and babies, new benefits for veterans, and housing for low-income families. It maintains our global scientific leadership, and prioritizes our environmental programs. It protects our drinking water and teaches our children the art of community service. From children born with spina bifida to the Nobel laureates who help prevent birth defects, this bill provides real help for real people.

Mr. President. The diversity or programs funded by this bill reflect the diversity of this country. I urge my colleagues in the Senate to support this conference report.

Finally, I would like to thank Senator BOND, Congressman LEWIS and Congressman STOKES for all the hard work they've done to get this bill to conference and to keep this bill from ending up in a continuing resolution. I would personally like to thank my appropriations staff, Sally Chadbourne, Catherine Corson, David Bowers, and Liz Blevins, as well as the majority staff, Stephen Kohashi, Carrie Apostolou, and Lashawnda Leftwich. I would also like to thank the members of my personal office staff and those on Senator BOND's staff who worked so hard to help us get through this conference.

DESIGNATING ROOM S. 131 IN THE CAPITOL AS THE MARK O. HATFIELD ROOM

Mr. LOTT. Mr. President, I ask unanimous consent the Senate turn to Senate Resolution 298, submitted by Senator BYRD and others, the resolution be deemed agreed to, the motion to reconsider be laid upon the table, all without further action or debate.

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

Mr. LOTT. I ask unanimous consent that all Senators be added as cosponsors to this resolution.

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

The resolution (S. Res. 298) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 298

Whereas Senator Mark O. Hatfield, the son of Charles Hatfield (a railroad construction blacksmith) and Dovie Odom Hatfield (a school teacher), upon the completion of the 104th Congress, will have served in the United States Senate with great distinction for 30 years;

Whereas Senator Mark O. Hatfield is the longest serving United States Senator from Oregon;

Whereas Senator Mark O. Hatfield serves on the Committee on Energy and Natural Resources, the Committee on Rules and Administration, the Joint Committee on the Library, and the Joint Committee on Printing;

Whereas Senator Mark O. Hatfield serves as Chairman of the Committee on Appropriations and has provided for the development of major public works projects throughout the State or Oregon, the Pacific Northwest, and the rest of the Nation;

Whereas Senator Mark O. Hatfield has constantly worked for what he calls "the desperate human needs in our midst" by striving to improve health, education, and social service programs;

Whereas Senator Mark O. Hatfield has earned bipartisan respect from his Senate colleagues for his unique ability to work across party lines to build coalitions which secure the enactment of legislation; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Mark O. Hatfield as a reminder to present and future generations of his outstanding service as a United States Senator; Now, therefore, be it

Resolved, That room S. 131 in the United States Capitol Building is hereby designated as, and shall hereafter be known as, the "Mark O. Hatfield Room" in recognition of the selfless and dedicated service provided by Senator Mark O. Hatfield to the Senate, our Nation, and its people.

REAUTHORIZING THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to the consideration of Senate Resolution 299 which is at the desk, reauthorizing the Senate Arms Control Observer Group, the resolution be agreed to, and the motion to reconsider be laid upon the table, all without further action or debate.

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

The resolution (S. Res. 299) was agreed to, as follows:

S. RES. 299

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), is amended by striking "until December 31, 1996" and inserting "until December 31, 1998".

ORDERS FOR WEDNESDAY, SEPTEMBER 25, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it stand in recess until the hour of 9:30 a.m., Wednesday, September 25; further, that immediately following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved, and there then be a period for the transaction of morning business not to extend beyond the hour of 12 noon with Senators permitted to speak for not more than 5 minutes each with the following exceptions for times designated: Senator FAIRCLOTH, 10 minutes; Senator THOMAS, 30 minutes; Senator DASCHLE or his designee, 30 minutes; Senator MURRAY, 10 minutes; Senator KENNEDY, 30 minutes; and Senator REID, 15 minutes.

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

Mr. LOTT. I further ask unanimous consent that at the hour of 12 noon the Senate proceed to executive session to begin consideration of Calendar No. 23, the International Natural Rubber Agreement as under a previous order.

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

PROGRAM

Mr. LOTT. Tomorrow, there will be a period for morning business to accommodate a number of requests from Senators. At noon, the Senate will consider the natural rubber agreement. However, it is my understanding that a rollcall vote will not be necessary on that matter.

Following disposition of that treaty, the Senate will consider either the pipeline safety bill, with only one issue outstanding on that matter, and I understand they are still working on it, or possibly the work force development conference report or additional debate with regard to the veto message to accompany the partial-birth abortion veto override.

So the Senate will begin consideration of the continuing resolution during tomorrow's session. Therefore, all Senators should expect rollcall votes throughout the day on Wednesday, possibly into the night. Of course, I will be talking with the Democratic leader, the Senator from South Dakota, about how we can design a process to proceed to the continuing resolution. And we will keep all Senators advised how we will proceed on the continuing resolution.

With that, Mr. President, I thank the Senator from South Dakota for his patience. I yield the floor.

PAUL SIMON'S CONGRESSIONAL CAREER

Mr. DASCHLE. Mr. President, there are a number of reasons we are grateful to see the end of the 104th Congress, but one reason I regret this ending is that it also marks the end of PAUL SIMON's distinguished career in Congress.

I have had the privilege of working with PAUL SIMON in both the House and in the Senate. I have found him always to be an honest and decent man who loves his country very deeply. Perhaps what stands out about PAUL SIMON the most after his bow tie—and I must say we have all improved our looks and image substantially this afternoon by adopting his practice of wearing a bow tie—is his strongly developed sense of moral leadership. His parents were both Lutheran missionaries, his father, I am told, an idealist and his mother a pragmatist who handled all the family's expenses. From their combined influence, he grew into what he described as a pay-as-you-go Democrat.

As a young man, PAUL SIMON did not want to be in government. He wanted to keep an eye on it and write about it. In 1948, he bought the struggling Troy, IL, Tribune, and at 19 became the Nation's youngest newspaper editor-publisher. He eventually built that paper into a chain of 14 newspapers.

He interrupted his journalism career in an Army counterintelligence unit monitoring Soviet activities in Eastern Europe from 1951 to 1953. When he returned to journalism in 1954, he tried unsuccessfully to recruit candidates to run for public office. After hearing "no" one too many times, he finally decided at the age of 25 to run for the Illinois State Legislature. That was the beginning of a long and very distinguished career.

PAUL SIMON served four 2-year terms in the Illinois House and two 4-year terms in the Senate. He provided constituents with detailed reports on spending long before the passage of the disclosure laws. He was elected to the U.S. House of Representatives in 1974 and reelected four times. He joined the Senate in 1984. Fortunately for students of politics and for history, the old newspaper reporter in him never stopped working. Senator SIMON is the author of 14 books and countless articles.

In 1987, when he announced his candidacy for President, PAUL SIMON said, "I seek the Presidency with a firm sense of who I am, what I stand for, and what I can and will do to advance the cause of this great Nation."

It is that same strong sense of who he is and what he stands for that has made PAUL SIMON such an invaluable asset to this body and to our Nation. It was in part the leadership of this pay-as-you-go Democrat that helped this Nation understand that we have a job to do in balancing the budget and that we have to do it the right way, without ripping apart America's safety net. I, and I know all of my colleagues, will miss Senator SIMON's good humor. Unfortunately, I suspect I will not miss his good counsel because I am confident that Senator SIMON will continue in his new career to write and to keep us on the right track, just as he has one way or the other for all of these years.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

TRIBUTE TO SENATOR PAUL SIMON

Ms. MOSELEY-BRAUN. Mr. President, a few minutes ago—actually an hour ago now—the Senate demonstrated, I think, the kind of cooperation and collegiality that really is in the best tradition of this Senate, when Members on both sides of the aisle, male and female alike, came out wearing bow ties as a tribute to my senior Senator, PAUL SIMON.

At the outset, I would like to thank the people who made it possible: Senator CONNIE MACK of Florida, with whom I had conversations regarding the surprise to PAUL SIMON and who made it possible also for Members on the Republican side of the aisle to have bow ties; to Senator DAVID PRYOR of Arkansas who took the initiative to have the ties made. I had to question him why it was that the girls didn't exactly get ties. We had to tie our own bows. But it was all right because the bows are really quite lovely. I know many of us will probably keep these as part of our wardrobes permanently. I couldn't help but think, when I saw so many Members of this Senate come out on the floor in their bow ties or their bows, how very special this institution is in its tribute to a very special Member.

First, with regard to the institution. We very often call each other "distinguished," "my good friend," "the honorable." But there is something about serving in an institution like this that brings us together and binds us together, almost like a family, without regard to our political affiliation or even our philosophical orientation, maybe because we spend so many hours together or we work together and we work such long hours together, a point that is often missed by the general public. But the fact is, because of our coming together in so many different endeavors, the Members of this body all have a special regard and a special relationship one to the other.

I think that regard and that relationship was reflected in the tribute to Senator PAUL SIMON when Members, again on both sides of the aisle, so willingly took up the bow tie and took up the bow in honor of him and in tribute to what has become his signature—his bow tie.

Senator PRYOR is on the floor now, and I don't know where he had these made, but they certainly are gorgeous.

Senator PRYOR and Senator MACK and the other Members, and I must say we had cooperation from just about everybody—the people in the cloakroom

who made the ties available, the staffer who helped play a little trick on PAUL SIMON this afternoon when we sent him a note that said he had a phone call so he would leave the caucus long enough for an announcement to be made about the surprise. Everyone has cooperated to make this possible.

It was really a great honor to him and a great honor to his service to this institution, as well as our State of Illinois and our Nation that this tribute was such a moving one. Even though we were in the middle of votes, everyone made the point to go up and to speak to Senator SIMON and to wish him well.

PAUL SIMON epitomizes public service. He has always sought to make government work for the people. He understands that democratic government is not separate and distinct from the people. But it is no more, no less than a mechanism for all of us to come together for our common good. In a democracy, government is all of us, and PAUL SIMON has spent a lifetime making government real, making government responsive, making government serve the public interest.

He is a genuine public servant, and a public servant who has functioned consistent with his beliefs and his principles and his own ethic over the years, whether popular or unpopular, in the good times and the bad ones.

One can always be certain that PAUL SIMON's values are never very far from his votes. He always has been known to care for the less fortunate, for those without a voice. His compassion for people has helped make him a conscience for this body and, indeed, for our Nation. He has been a fighter on issues without regard to whether or not they made it on the polls or the pop charts.

In fact, he started working for education, for example, before it was as high up in the polling as it is today. Education is a passion of PAUL SIMON because he believes that it is an integral part of opportunity in preserving the American dream. So he fought for educational opportunity, and he has fought to make certain that opportunity was extended to all Americans everywhere—handicapped Americans, minority Americans, Americans in the suburbs and the cities—wherever in this country. PAUL SIMON's concern as a small "d" democrat for the people of this country has been unwavering.

It is that same concern that drove him to be the chief architect and the chief sponsor of the balanced budget constitutional amendment. Many times when I am called on, when I speak to people about the balanced budget amendment, which is an issue that now is very popular—it wasn't when he first started working on it—I remind people that it was a Democrat, PAUL SIMON, who championed the balanced budget amendment before it was popular.

He did so because he knows and he believes that we have a duty in our generation to leave our children more than a legacy of debt. So it is essential, again, if we are going to hold on to that American dream, that we have to be responsive to the people, but we have an obligation also to be prudent and not to be profligate in our spending.

I heard a story the other day that I think really describes PAUL SIMON, that I think is so typical or so appropriate with regard to describing PAUL SIMON. A woman said to me she always liked people who liked children and people who liked trees, because those were people who cared about what came after they were gone. If you think about it, caring about children and caring about trees and caring about the future of America is exactly what has distinguished PAUL SIMON's service in this Senate and in his public life through the years in the State of Illinois.

He leaves some awfully big shoes to fill. He likes to point out that he could do for me what no one else can do, and that is make me the senior Senator from Illinois. While I look forward to being the senior Senator from this great State, at the same time I recognize that it is an awfully tall bill to fill, to live up to the standards and live up to the kind of ethic that PAUL SIMON has always represented.

He has been a public servant of the first order. He started having town meetings in our State and, quite frankly—he has had a couple thousand of them—it is going to take me a little while to catch up with the number of townhall meetings that PAUL SIMON had in the State. He also had townhall meetings here. In fact, when I came to the Senate and joined him with the every-Thursday townhall meetings in which we speak to the people who drop by on the issues, this was an innovation by PAUL SIMON that, frankly, was absolutely consistent with his reaching out, with his spreading the gospel of democracy to the people who came to visit their Capitol.

So, in closing, Mr. President, I would like to say that it is altogether appropriate that PAUL SIMON comes from and represents the State of Illinois. Our State has been long known as "the land of Lincoln," and we are very proud of that. Illinois' greatest citizen made a monumental contribution to our country in very difficult times, but I think it is absolutely consistent with his legacy that our State has been served by a giant in the nature and of the name of PAUL SIMON.

He follows in the best Illinois tradition: someone who is committed to keeping the United States of America the greatest country in the world, someone who has devoted the full measure of his talent and his energy to his State and to his country.

So it is with great love and affection that I wish him well in his retirement, as I am sure that my colleagues do as they demonstrated on this floor this afternoon.

I thank the Chair, and I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I want to thank my distinguished colleague from Illinois, Senator CAROL MOSELEY-BRAUN, for the eloquent statement she has made about our departing colleague, the honorable PAUL SIMON, the senior Senator from her State.

I also want to thank, Mr. President, our distinguished colleague, the junior Senator from Illinois, for the role that she has played in making this so-called bow tie day in honor of PAUL SIMON, not only a reality, but I think certainly, Mr. President, a success.

I must say, I have been asked several times during the course of the afternoon—because I think I have gotten a little bit too much attention or credit for this, and I should not get any—but I was sitting at an airport some months ago, visiting with my friend and colleague from the State of Florida, Senator CONNIE MACK, and I do not know exactly how we started talking about PAUL SIMON of Illinois, but something came up, and CONNIE MACK said to me, he said, "You know, we ought to do something to honor PAUL SIMON. What a grand person. What a distinguished American. What an opportunity we have had to serve with this man, PAUL SIMON."

We started thinking out loud, sitting in the airport, waiting for the plane. And the plane did not come, and it did not come, so we had idea after idea. Finally, CONNIE MACK said, "You know what we ought to do? We all ought to, before PAUL SIMON leaves the Senate, we ought to wear a bow tie in his honor because it is such a symbol of this great man." So I said, "CONNIE MACK, you have come upon a great idea." I raced to the telephone and called my friend in Little Rock, Mr. Bill Humble, and I said, "Bill, can your tie plant make us up 100 bow ties?" He said, "We'll be glad to."

And so with that, and then with the help, the wonderful help of Senator CAROL MOSELEY-BRAUN, who helped arrange the disbursing of the ties today, and keeping this a secret, even almost from all of the PAUL SIMON staff, and almost Mrs. Simon, Jeanne Simon—I did notice she was here today to see the thunderous applause, the thunderous ovation that her husband, PAUL SIMON, received by his colleagues, I would say about 95 percent of those colleagues wearing a bow tie to pay tribute to our colleague. So it has been a nice day. It was a nice way to express our affection and our respect for PAUL

SIMON of Illinois. I have always admired him.

I have admired him from afar when he was a Member of the House of Representatives, when he was doing so much with children's issues, when he was championing the cause of education in our society, when he was concerned about the breakdown of the family unit, which he was talking to us about, as Senator MOYNIHAN was talking to us about decades ago, about this breakdown, and the perseverance with which he approached each and every issue that he undertook. And I am so grateful that I have had the privilege of not only sitting alongside this man, but also literally sitting behind Senator PAUL SIMON's desk for these numbers of years.

Mr. President, it is time for those of us who are departing, like my colleague and wonderful friend from Wyoming, Senator SIMPSON, who I came to the Senate with in 1979, it is time now, speaking of desks, for us to clean out our desks and take those humble belongings that we have in these desks home with us or wherever we might go, and to inscribe our name as occupant of the desk.

Many in our country might not know the history of these beautiful Senate desks in the Senate Chamber, but I hope all Americans will know that each Senator who occupies a particular desk will have his or her name inscribed in that desk for posterity and for all future generations to know.

Finally, Mr. President, back to our friend, Senator SIMON, if I were speaking to a political science class—and I think come the next semester at the University of Arkansas I might be speaking to one or two of those classes—if I am ever asked the question by one of those political science students as to how to pattern their life into becoming a politician, and a public servant, ultimately a public official, I think I would say to that class that you have to look no further than the life, the personal life and the political life, of PAUL SIMON of Illinois, because I think with his life he has made a statement, just like we on the floor today made a statement by wearing a PAUL SIMON bow tie.

PAUL SIMON has made a statement for the last three decades that I think will be an inspiration to all who believe in this system of government and to all who believe that we can make this system of government better.

A lot of people have so-called "lost faith" with our system of government, with politicians and with Washington, and what have you. But I think I would say this—and I am proud that my colleague from Illinois is here, my colleague from Wyoming, and our new colleague from Tennessee, and the distinguished occupant of the Chair from Idaho—I would just say that I think that PAUL SIMON, perhaps as much as any Senator that I have ever had the privilege of serving with, has humanized government. He has humanized politics. And he has humanized politicians. I think he has done it with grace. He has done it with vision. And he has done it I think with joy, because that joy exudes from PAUL SIMON. The happiness of his profession, the happiness of his work, I think will live long after PAUL SIMON has left these Chambers of the U.S. Senate.

So, Mr. President, with that, we say thank you, PAUL SIMON, thank you for being our friend, thank you for being truly a great U.S. Senator and a great Member of this body and a great friend of us all. Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I, too, will join in the great remarks about my friend PAUL SIMON and thank the Senator, soon-to-be senior Senator from Illinois. My time as senior Senator has been so fleeting that I am hardly able to recall it because I served as the junior Senator to Malcolm Wallop, my friend from Wyoming. So enjoy the term indeed, I say to my colleague from Illinois. Do it well.

And to my friend, Senator PRYOR, who came here with me—and he and his wife Barbara have become very dear and special friends of ours—he is a most genial, generous, kind man, and a friend to his friends. If they rallied him in time of need, it would only be because in his life and her life they have done just exactly that to all around them.

With regard to PAUL SIMON, you have to understand that I met PAUL when we were State legislators together in 1971. There was a conference on outstanding State legislators, and here were PAUL SIMON and myself, he of the Illinois Legislature, me of the Wyoming Legislature, honored. They had two from each State. I was one; PAUL was one. The first day I met him, I had a bow tie on because PAUL and I had to at least know how to tie our own bow ties. There are people in here today that have no concept of how to tie a bow tie. In fact, some of them have difficulty with even a mechanical tie is my experience seeing it today. But we laughed about that over the years.

But we are not in any way doing anything but paying tribute to this man who, with all the accolades we have heard, they are all true—honest, direct, thoughtful, steady. I know. I served with him. He served on my subcommittee on immigration, refugee policy, always attentive, always asking, always, always having a query and inquiring and saying, "Well, why is this? What is the purpose of this?"

And so, indeed, he and Jeanne, we wish them Godspeed. We will see more of them as we go on to snatch more of our own lives for ourselves rather than in this place and leave those tasks to our brothers and sisters and knowing what is required of them and both of us ready to move on to other things.

I could not have had a finer colleague, whether it was working on the issues of fraudulent marriage—PAUL handled that while I was chairman—or the balanced budget. We all know the things he does. We all know who he is. That is why we did this tribute today. No one else will have a tribute like that in the U.S. Senate—how we would honor one of our colleagues in any way as we did today and see the look on his face and the delight and that smile that is so very special. He knew that and we knew that. I thought how appropriate to honor him in that way. None of us will ever receive such a wonderful accolade, with whimsy, humor, and good spirit. I commend all those who brought that to pass.

JAN PAULK

Mr. SIMPSON. A note about Jan Paulk. She is a wonderful woman and has been such a help to us in our Senate activities as we travel and do our official duties, visiting with Prime Ministers, Presidents, and State funerals and all the rest.

Jan Paulk, a very engaging woman, was hospitable, patient beyond words, and a fine companion on journeys, some with great sadness, some pomp and circumstance, and there was Jan, always assisting everyone, including spouses, and being genial, kind, and courteous in every way.

I have never seen her when she was out of sorts, and she certainly could have been on many occasions. My wife and I wish her well. Indeed, she is a very wonderful woman. There is much more for her to do, and she will do it. I am very pleased for her about her new task. She will enjoy all and she will do it exceedingly well. We wish her Godspeed.

I will now yield the floor and signify that the Senator from Tennessee, my friend, Senator Dr. BILL FRIST, will speak on a very emotional issue, partial-birth abortion. At the conclusion of his remarks we will go to the closing of the Senate session.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

PARTIAL-BIRTH ABORTION

Mr. FRIST. Mr. President, I rise today as a physician concerned about women, concerned about women's health, concerned about safe medical practices. I rise to strongly support the ban on partial-birth abortions. My colleagues in this Chamber already know my position that this procedure called a partial-birth abortion is both medically unnecessary and unnecessarily brutal and inhumane.

Mr. President, every baby deserves to be treated with respect, with dignity and with compassion. This procedure, which has been banned in a bipartisan, in a historic way by the U.S. Senate and by the House of Representatives, very deeply offends our sensibilities as human beings.

I need to make very clear that those of us who oppose this very specific, very explicitly defined procedure care very deeply about women and about the horrific situations they sometimes face, but how can we answer to our children, to our families, to our constituents back home and to ourselves if we continue to allow babies to be aborted through this partial-birth abortion procedure, especially—and I think in some of the remarks earlier today it was made clear—especially in light that this procedure, this specific, well-defined procedure is medically unnecessary.

As the Senate's only physician, the only physician in this body, as the only board-certified surgeon in this body, I feel compelled to address the issue surrounding the medical misinformation that is laid on our desks, that you hear on the floor of this body, that you read in the newspaper each day.

There are really three medical myths that each of us in preparing to vote 2 days from now must address. There are medical myths that surround potential harm to the mother, to affecting the welfare of the mother, and they are as follows:

Myth No. 1: We have heard it said in this body that this is an accepted and safe medical procedure, often necessary to save the reproductive health and/or life of the mother. I have talked to physicians who perform emergency and elective late-term abortions, both in Tennessee and around the country. Many of them had not heard of this specific procedure, but all of them, after hearing it—and I went back to the original papers, which I will share—all of them that I talked to, condemned it as medically unnecessary—meaning there are in those very rare situations alternative types of therapy—or even dangerous, dangerous, to the health of the mother. In every case of severe fetal abnormality or medical emergency, there are other alternative procedures that will preserve the life of the mother and the mother's reproductive health.

Dr. Hern, the author of a textbook entitled "Abortion Practice," which is a widely accepted text on abortion, disputed the claim that this is a safe procedure in an interview with the American Medical News. He cited, for example, concerns about turning the fetus into a breach position—which is part of this procedure—turning the baby around, which can cause placental abruption, or separation of the placenta, and amniotic fluid embolism.

In an effort to combat much of the medical and scientific misinformation surrounding this issue, a number of physicians and specialists and medical spokespeople have gotten together, formed a coalition to address some of the medical errors, the medical misinformation, that have been put forward. Dr. C. Everett Koop, a former Surgeon General is a member of this coalition. He has also stated that this procedure, in his clinical experience, "is not a medical necessity for the mother."

I hesitate to go into the procedure, but, again, as a physician, what I turn to is the procedure itself as defined in the medical literature. So I turn to a presentation called Dilation and Extraction for Late Second Trimester Abortion, written and presented by Dr. Martin Haskell, presented at the National Abortion Federation risk management seminar, September 13, 1992. This is the actual paper that was presented. As with any medical paper, there is an introduction, a background, a patient selection, a description of the patient operation. Without going into the entire description of the operation, let me quote from this medical presentation presented at a medical scientific meeting.

> While maintaining this tension, lifting the cervix and applying traction to the shoulders with the fingers of the left hand, the surgeon takes a pair of blunt carved Metzenbaum scissors in the right hand [the Metzenbaum scissors are scissors about that size, typically used in surgery.] He carefully advances the tip carved down along the spine and under his middle finger until he feels it contact the base of the skull with the tip of his middle finger.
>
> Reassessing proper placement of the closed scissors tip and safe elevation of the cervix, the surgeon then forces the scissors into the base of the skull or into the foramen magnum. Having safely entered the skull, he spreads the scissors to enlarge the opening.
>
> The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.
>
> The surgeon finally removes the placenta with forceps and scrapes the uterine walls with a large Evans and a 14 mm suction curette. The procedure ends.

I share this because I have other descriptions, and I have seen the graphics. And I always wonder. "What filter does this go through before it gets to the floor of the U.S. Senate, or to the House, or to the newspaper?" And these are the exact words used in the oral presentation at a medical meeting of this procedure by one of its proponents.

Myth No. 2: This procedure is only performed in cases of severe fetal abnormality when the fetus is already dead, or will die immediately after birth.

Mr. President, this falsehood has been repeated again and again and again. It has been used as one of the principal defenses of the veto handed down by President Clinton. But the record clearly shows that this is false. Dr. Martin Haskell, one of the best known practitioners of this procedure, this partial birth method, told American Medical News that:

> Eighty percent of his partial-birth abortions were done for "purely elective reasons."

Another doctor testified before Congress that he has performed partial-birth abortions on late term babies simply because they had a "cleft lip."

Myth No. 3: The fetus is already dead or insensitive to pain during this procedure, which I just described, because of the anesthesia administered to the mother.

Of all the misconceptions of this debate this has some of the most troubling implications for women's health. Some of the documents distributed to this body have stated "The fetus dies of an overdose of anesthesia given to the mother intravenously."

Mr. President, this is not true. If it were true, then women who undergo elective operations during pregnancy—even life-saving procedures done under anesthesia—would probably avoid it because of fear of danger to that fetus. And it is wrong I think to scare women to endanger their health in order to defend an unnecessary procedure.

Let me go back to the paper again, the medical scientific paper, because I forgot to mention that in closing of the paper, in the summary, the last paragraph on page 33, which says:

> In conclusion, dilation and extraction—the partial birth procedure I just described—is an alternative method for achieving late second trimester abortions to 26 weeks. It can be used in the third trimester.

So even the author says it is an alternative method. This procedure is medically unnecessary.

I have heard from a number of my fellow colleagues who have been outraged at the blatant misinformation campaign that has come forward.

The American Society of Anesthesiologists has issued repeated statements contradicting the argument of fetal death or coma due to anesthesia given to the mother.

Mr. President, I know that this issue does stir up a lot of emotion. But I think we do need to be careful with the facts. The facts are this procedure is indefensible from a medical standpoint. There is never an instance where it is medically necessary in order to save the life of the mother or her reproductive health.

I know a number of my colleagues oppose this bill not because they support the procedure but on the grounds that they fear further and further Government intervention into the practice of medicine. And I too have a fear of excessive Federal Government intervention into that practice of medicine. But I do think there comes a time when individuals, a few individuals on the fringe, force us to draw a line to protect innocent human life from the sort of brutality which I just described

to you out of the literature. And I truly feel, Mr. President, that this is one of those times.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, parliamentary inquiry: Are we in morning business?

The PRESIDING OFFICER. Not at this moment.

BEST REGARDS TO SENATOR COHEN

Mr. LEVIN. Mr. President, I rise briefly to extend my best regards to Senator BILL COHEN as he leaves this body after 18 years in the distinguished service.

I have had the good fortune of serving with Senator COHEN on the Governmental Affairs Committee for the entire 18 years, and have also served with him on the Subcommittee of Oversight of Government Management on that committee. Sometimes he was the chairman and other times I was the chairman during this 18-year period. But in either case we were always able to work together and I think make a real difference in the management of our Federal programs.

Several pieces of legislation stand out for me when I think back over our years of working together: First and foremost would be the Compensation in Contracting Act which Senator COHEN and I cosponsored and got enacted back in 1984. There is a current estimate that perhaps $40 to $50 billion in savings resulted from that law. That was a great piece of work that he had such an instrumental role in.

Then we worked on lobbying reform which has cleaned up our broken lobbying disclosure laws and has resulted in the registration of at least twice as many lobbyists and the disclosure of almost five times as much money being spent on lobbying activities than we knew of prior to this law being passed.

We have reauthorized the independent counsel law three times since it was first enacted in 1978.

We have struggled with many key issues, including maintaining the independence of the office but continuing to retain important checks. It is far from a perfect law but it has been worth the effort.

The list of joint efforts is long: Social Security Disability Reform Act of 1984; several reauthorizations of the Office of Government Ethics; oversight hearings on Wedtech; the FAA; Federal courthouse construction; Federal debarment practices; overloading; security; subcontractor kickbacks; hurry-up spending on medical labs; the United States Synfuels Corporation. We touched on almost every department of the Federal Government.

We have taken testimony from a broad cross-section of witnesses from hackers to slackers, from crooks to saints, auditors, parents, scientists, whistleblowers, meat inspectors, doctors, lawyers, and engineers. We have had witnesses behind screens, witnesses with distorted voices, and witnesses giving testimony by phone over a speaker. We have had hearings with all the press, and we have had hearings with no press. We have had hearings where everything worked, and we have had hearings where nothing seemed to work. We have had testimony that was funny, testimony that was tragic. We have addressed issues where the solutions were obvious and achievable, and where the answers were elusive.

But, Mr. President, Senator COHEN and I on this little subcommittee have lived through the thick and the thin of congressional life. Senator COHEN has done it with integrity, with intelligence, with humor, and with elan, and sometimes with some poetry.

He served the people of Maine and the people of this Nation with distinction. The Senate will be a lesser place when he leaves, and I will miss him as a friend and as a colleague. And we wish him nothing but the greatest happiness because he surely deserves it.

I thank the Chair. I yield the floor.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask that there now be a period for the transaction of morning business with statements limited to 5 minutes.

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

TRIBUTE TO DEAN SCHOFIELD

Mr. PRESSLER. Mr. President, today I would like to pay tribute to Dean Schofield from Pierre, SD. Dean is retiring this month after serving 35 years with the South Dakota Department of Transportation. Dean's tireless dedication to our State has been exemplary.

Dean's career began at the Department in 1961. His career steadily advanced over the years, from an assistant engineer to deputy secretary of the Department, the position he held when he announced his retirement.

Mr. President, during my 22 years in Congress, I have often relied on Dean's insight and suggestions as I've worked to promote South Dakota's transportation system. Indeed, Dean has always kept me and my staff aware of South Dakota's transportation priorities.

For example, I recall last year when Dean testified before a Surface Transportation and Merchant Marine Subcommittee hearing on rail service. Dean has also lent his expertise on highway and air service issues. His knowledge and contributions have been invaluable.

I congratulate Dean upon his retirement and offer my good wishes to both he and his wife, Delcie. Dean leaves behind big shoes to fill.

Mr. President, I ask unanimous consent a copy of an executive proclamation by the Governor of the State of South Dakota honoring Dean be printed in the RECORD immediately following my remarks.

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

EXECUTIVE PROCLAMATION, STATE OF SOUTH DAKOTA

Whereas, Jerald D. (Dean) Schofield, a graduate of Pierre High School, with a degree in Civil Engineering from South Dakota State University, started his career with the Department of Transportation on January 9, 1961 in Pierre as an Assistant Engineer, advancing to Project Engineer in 1968, Assistant Secondary Roads Engineer in 1973, Construction Program Engineer in 1974, Office Administrator of Planning and Programs in 1980, Director of the Division of Planning in 1986, and Deputy Secretary in 1989, the position he held until his retirement; and

Whereas, Dean has been recognized by his peers in national and regional organizations by being selected to serve on many committees as well as being selected as Secretary-Treasurer of the Western Association of State Highway & Transportation Officials (WASHTO); and

Whereas, Dean was deeply involved in development the Rural States' position and assisting in the passage of ISTEA, as well as many other Federal issues—his work (as often was the case) was accomplished in the background where he meticulously provided essential support information and was always willing and able to fill in on short notice; and

Whereas, Dean has been instrumental in developing the Department's Computerized Needs Data Book, the 5-Year Construction Program with its project prioritization system based on needs; the annual Strategic Plan and the legislative program; and

Whereas, Dean served on many Department, as well as several statewide and special Governor's Task Forces; and

Whereas, Dean brings a special, although quiet, skill to every area he encounters and has always encouraged other employees and has been a mentor and a model by his leadership and example of superior work ethic and commitment to family, profession, church and community; and

Whereas, Dean, through his knowledge, judgment, openness, integrity, thoroughness and organizational skills, has earned the respect of everyone he has dealt with, both within and outside the DOT, including legislators, county commissioners, governors, congressmen, landowners, fellow employees and ordinary highway users; and

Whereas, Dean has been voted, by unofficial poll, to be the Department's most considerate and genuinely caring employee and one who will be sorely missed by his many friends and co-workers; and

Whereas, after 35 years and 8 months of exemplary service to the state of South Dakota and the SDDOT, it is now time for Dean to retire to his home in Pierre with Delcie, his wife of 32 years, to devote his time to traveling, carpentry, gardening, attending athletic events, and enjoying his 3 children, Darrell, Darla, and Davis, and 5 grandchildren, Brittanie, Matthew, Nathan, Taylor, and

Kaitlyn, and it is fitting and proper as Governor to recognize the many accomplishments of this outstanding South Dakotan:

Now, therefore, I, William J. Janklow, Governor of the State of South Dakota, do hereby proclaim August 30, 1996, as Dean Schofield Day in South Dakota, and I join with Dean's family, friends and co-workers in wishing him a fulfilling and happy retirement.

CONGRATULATIONS TO NELLIE NORTON SCHNELL CELEBRATING HER 100TH BIRTHDAY

Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Nellie Norton Schnell of Fayette, MO, who will celebrate her 100th birthday this Friday, September 27, 1996. She is a truly remarkable individual. Nellie has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of her life has meant much more, however, to the many relatives and friends whose lives she has touched over the last 100 years.

Nellie Norton Schnell's celebration of 100 years of life is a testament to me and all Missourians. Despite being visually and hearing impaired, Nellie organized and planned her own birthday celebration to take place this Friday at her grand-daughter's home in Boonville, MO. Her achievements are significant and deserve to be saluted and recognized. I would like to join her many friends and relatives in wishing her health and happiness in the future.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 a nomination which was referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1281. An act to express the sense of the Congress that it is the policy of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

H.R. 1720. An act to reorganize the Student Loan Marketing Association, to privatize the College Construction Loan Insurance Association, to amend the Museum Services Act to include provisions improving and consolidating Federal library service programs, and for other purposes.

H.R. 2988. An act to amend the Clear Air Act to provide that traffic signal synchronization projects are exempt from certain requirements of Environmental Protection Agency Rules.

H.R. 3153. An act to direct the Secretary of Transportation to issue a final rule relating to materials of trade exceptions from hazardous materials transportation requirements.

H.R. 3877. An act to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the "David H. Pryor Post Office Building".

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 811. An act to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop facilities, and for other purposes.

At 5:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate.

H.R. 2508. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

H.J. Res. 193. Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact.

H.J. Res. 194. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

MEASURES PLACED ON THE CALENDAR

The following measures were read the second time and placed on the calendar:

S. 2100. A bill to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

S.J. Res. 63. Joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes.

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–4158. A communication from the Deputy Director of the U.S. Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Prevailing Rate Systems" (RIN3206–AH58); to the Committee on Governmental Affairs.

EC–4159. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the list of General Accounting Office reports and testimony for August 1996; to the Committee on Governmental Affairs.

EC–4160. A communication from the Director of the U.S. Office of Government Ethics, transmitting, pursuant to law, the rule entitled "Standards of Ethical Conduct for Employees of the Executive Branch" (RIN3209–AA04); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SIMPSON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1711. A bill to establish a commission to evaluate the programs of the Federal Government that assist members of the Armed Forces and veterans in readjusting to civilian life, and for other purposes (Rept. No. 104–371).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Joseph J. Redden, [redacted]

The following-named officers for appointment in the Reserve of the Air Force, to the grade indicated, under the provisions of title 10, United States Code, sections 8374, 12201, and 12212:

To be brigadier general

Col. William J. Boardley, [redacted] Air National Guard of the United States.

Col. Walter R. Ernst II, [redacted] Air National Guard of the United States.

Col. Dennis A. Higdon, [redacted] Air National Guard of the United States.

Col. Enrique J. Lanz, [redacted] Air National Guard of the United States.

Col. James A. McDevitt, [redacted] Air National Guard of the United States.

Col. Joseph I. Mensching, [redacted] Air National Guard of the United States.

Col. Fisk Outwater, [redacted] Air National Guard of the United States.

Col. Lawrance L. Paulson, [redacted] Air National Guard of the United States.

Col. Maxey J. Phillips, [redacted] Air National Guard of the States.

Col Wallace F. Pickard, Jr., [redacted] Air National Guard of the United States.

Col. Richard A. Platt, [redacted] Air National Guard of the United States.

Col. John C. Schnell, [redacted] Air National Guard of the United States.

Col Allen J. Smith, [redacted] Air National Guard of the United States.

Col. Paul J. Sullivan, [redacted] Air National Guard of the United States.

Col. Michael H. Tice, [redacted] Air National Guard of the United States.

The following-named officers for promotion in the Regular Army of the United States to the grade indicated, under title 10, United States Code, sections 6112(a) and 624:

To be brigadier general

Col. John P. Abizaid [redacted] U.S.Army.
Col. Daniel L. Montgomery [redacted] U.S. Army.

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a);

To be brigadier general

Col. Lloyd E. Krase [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army to the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Paul J. Glazar [redacted]

The following-named officer for appointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Douglas D. Buckholz, [redacted] U.S. Army.

The following-named Army Competitive Category officers for promotion in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, United States Code, sections 611(a) and 624(c):

To be brigadier general

Col. Anders B. Aadland [redacted]
Col. Lawrence R. Adair [redacted]
Col. Robert E. Armbruster, Jr. [redacted]
Col. Raymond D. Barrett, Jr. [redacted]
Col. Joseph L. Bergantz [redacted]
Col. William L. Bond [redacted]
Col. Colby M. Broadwater III [redacted]
Col. James D. Bryan [redacted]
Col. Kathryn G. Carlson [redacted]
Col. John P. Cavanaugh [redacted]
Col. Richard A. Cody [redacted]
Col. Billy R. Cooper [redacted]
Col. John M. Curran [redacted]
Col. Peter M. Cuviello [redacted]
Col. Dell L. Dailey [redacted]
Col. John J. Deyermond [redacted]
Col. James M. Dubik [redacted]
Col. John P. Geis [redacted]
Col. Larry D. Gottardi [redacted]
Col. James J. Grazioplene [redacted]
Col. Robert H. Griffin [redacted]
Col. Richard A. Hack [redacted]
Col. Wayne M. Hall [redacted]
Col. William P. Heilman [redacted]
Col. Russel L. Honore [redacted]
Col. James T. Jackson [redacted]
Col. Terry E. Juskowiak [redacted]
Col. Geoffrey C. Lambert [redacted]
Col. William J. Leszczynski [redacted]
Col. Wade H. McManus, Jr. [redacted]
Col. Richard J. Quirk III [redacted]
Col. William H. Russ [redacted]
Col. Donald J. Ryder [redacted]
Col. John K. Schmitt [redacted]
Col. Walter L. Sharp [redacted]
Col. Toney Stricklin [redacted]
Col. Frank J. Toney, Jr. [redacted]
Col. Alfred A. Valenzuela [redacted]
Col. John R. Vines [redacted]
Col. Craig B. Whelden [redacted]
Col. Roy S. Whitcomb [redacted]
Col. Robert Wilson [redacted]
Col. Walter Wojdakowski [redacted]
Col. Joseph L. Yakovac, Jr. [redacted]

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Army while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Jay M. Garner [redacted]

The following U.S. Army National Guard officer for promotion in the Reserve of the Army of the grade indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be brigadier general

Col. Frank A. Avallone [redacted]

(The above nominations were reported with the recommendation that they all be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 12 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 10, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

In the Navy there are five appointments to the grade of lieutenant (list begins with Brian G. Buck) (Reference No. 715–2).

In the Navy there are four promotions to the grade of lieutenant commander (list begins with Jeffry L. Bennett) (Reference No. 768–2).

In the Navy there are 630 promotions to the grade of commander (list begins with Rufus S. Abernethy III) (Reference No. 1204).

In the Navy there are 1,120 promotions to the grade of lieutenant commander (list begins with Glen F. Abad) (Reference No. 1295).

In the Marine Corps there is one promotion to the grade of major (Robert T. Bader) (Reference No. 1300).

In the Marine Corps there is one promotion to the grade of major (Wayne D. Szymczyk) (Reference No. 1301).

In the Air Force there is one promotion to the grade of colonel (Wendell R. Keller) (Reference No. 1310).

In the Air Force there are 18 appointments to the grade of second lieutenant (list begins with Sean P. Abell) (Reference No. 1311).

In the Air Force Reserve there are 17 promotions to the grade of lieutenant colonel (list begins with Randall R. Ball) (Reference No. 1312).

In the Air Force Reserve there are 35 promotions to the grade of lieutenant colonel (list begins with James E. Ball) (Reference No. 1313).

In the Army Reserve there are 25 promotions to the grade of colonel (list begins with Ernest R. Adkins) (Reference No. 1314).

In the Army Reserve there are 44 promotions to the grade of lieutenant colonel (list begins with William A. Ayers, Jr.) (Reference No. 1315).

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of November 7, 1995, December 11, 1995, July 17, September 9, 13, and 19, 1996, at the end of the Senate proceedings.)

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. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activitiy; to the Committee on the Judiciary.

By Mr. MCCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

By Mr. THOMAS (for himself, Mr. ROBB, and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Mongolia; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

By Mr. MCCAIN:

S. 2111. A bill to amend the Act commonly known as the "Navajo-Hopi Land Settlement Act of 1974", and for other purposes; to the Committee on Indian Affairs.

By Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, Kentucky, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SHELBY:

S. 2115. A bill to protect and enhance sportsmen's opportunities and conservation

of wildlife, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Finance.

By Mr. LOTT (for Mr. HATFIELD):

S.J. Res. 63. A joint resolution making continuing appropriations for the fiscal year ending September 30, 1997, and for other purposes; read the first time.

By Mr. DODD (for himself, Mr. D'AMATO, Mr. WARNER, Mr. MOYNIHAN, Mr. BRADLEY, Mr. BYRD, Mrs. FEINSTEIN, Mr. FORD, Mr. HEFLIN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. PELL, Mr. REID, Mr. ROBB, Mr. SIMON, Mr. CHAFEE, Mr. COHEN, Mr. DEWINE, Mr. DOMENICI, Mrs. KASSEBAUM, Mr. MACK, Mr. MURKOWSKI, and Mr. THURMOND):

S.J. Res. 64. A joint resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD:

S. Res. 296. A resolution to permit disabled Senate employees with the privilege of the Senate floor to use supporting services on the floor; to the Committee on Rules and Administration.

By Mr. ABRAHAM (for himself and Mr. LEVIN):

S. Res. 297. A resolution referring S. 558, entitled "A bill for the relief of retired SFC James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes," to the Chief Judge of the U.S. Court of Claims for a report on the bill; to the Committee on the Judiciary.

By Mr. BYRD (for himself, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mrs. FRAHM, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 298. A resolution designating room S. 131 in the Capitol as the "Mark O. Hatfield Room"; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 299. A resolution extending the provisions of Senate Resolution 149 of the 103d Congress, 1st session, relating to the Senate Arms Control Observer Group; considered and agreed to.

By Mr. WELLSTONE (for himself, Mr. INOUYE, Mrs. MURRAY, Mr. DODD, Mrs. FRAHM, Mr. REID, Mr. GLENN, Mr. EXON, Mrs. BOXER, and Mr. KENNEDY):

S. Res. 300. A resolution to designate the week of November 3, 1996, as "National Shaken Baby Syndrome Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. FAIRCLOTH, Mr. LOTT, Mr. HELMS, and Mrs. KASSEBAUM):

S. 2104. A bill to amend chapter 71 of title V, United States Code, to prohibit the use of Federal funds for certain Federal employee labor organization activities, and for other purposes; to the Committee on Governmental Affairs.

UNION ACTIVITIES LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce a very important piece of legislation that would affect every American taxpayer. This measure would prohibit Federal funds from being used to pay Federal employees while working on union business.

Mr. President, I was shocked by a recent Government Accounting Office [GAO] report to Congress concerning union activities at the Social Security Administration [SSA]. I understand that Federal employees have the right to be represented by a union. However, I completely disagree that the American taxpayer should foot the bill for this representation.

The results of the GAO report are astounding and very disturbing. The GAO reported that over 413,000 hours were spent by Federal employees last year on union activities at the SSA. This cost the American taxpayers approximately $12.6 million in salaries and expenses. This does not even count the amount of time management spent answering union concerns. The cost involved for management to respond may be double the nearly $13 million we spent on the union representatives. The GAO identified 1,800 SSA employees who are authorized by the union to spend time on SSA union activities; I repeat, Mr. President, 1,800 Federal employees, paid by the U.S. Government to do union work. Currently, 146 of those representatives are considered to be full-time. In other words, 146 Federal employees are spending 100 percent of their time at the Social Security Administration working on union activities, not serving Social Security beneficiaries and the taxpayer, but doing full-time union work. These figures are for just one agency. In 1993, President Clinton issued Executive Order 12871, which requires agencies to involve labor organizations as full "partners" with management in identifying problems and creating solutions. In the time that this Executive order has been in effect, the cost to the American taxpayer for union activity at SSA alone has more than doubled. Further, Federal employees who are performing union work full-time has jumped from 80 to 146. There are still some 1,654 additional SSA employees working part-time on union activities. Mr. President, this is outrageous.

As I stated, these figures are only for the SSA. I have, therefore, requested that the GAO prepare a similar report to the one conducted at SSA, which would address union activity within the entire Federal Government. It is my feeling that the aggregate numbers will be equally as staggering and shocking as those found at SSA.

I am pleased to be a cosponsor of legislation, authored by my good friend, Senator FAIRCLOTH, which would prohibit using money from the Social Security and Medicare trust funds for union activities at SSA and the Department of Health and Human Services. However, I think we should go even further. No Federal money should be used to subsidize union work within any Government agency. Our Government workers should be attending to the business for which they were hired while on the American taxpayer's time. The union representatives at Federal agencies were not hired to do the work of the unions. They were hired to perform specific duties pertaining to the official business of the Federal agency that employs them.

The legislation I am introducing would ensure that union activities at the Federal level are not financed by the already heavily burdened American taxpayer. Mr. President, let the unions pay the salaries and expenses of those who perform union work; and let our tax money be used to do the work of the American people.

The able Majority Leader, Senator LOTT, Senators FAIRCLOTH, HELMS, and KASSEBAUM are original cosponsors. I invite my other colleagues to join us in support of this important measure to correct an absolute misuse of Federal funds.

I further ask unanimous consent that the GAO report regarding union activities at the Social Security Administration be included in the RECORD.

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

UNION ACTIVITY AT THE SOCIAL SECURITY ADMINISTRATION

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss the time spent on union activities at the Social Security Administration (SSA). Union activities generally include representing employees in complaints against management, bargaining over changes in working conditions and the application of personnel policies, and negotiating union contracts with management. The federal government pays its employees' salaries and expenses for the portion of time they are allowed to spend on union activities; it also provides other support such as space, supplies, equipment, and some travel expenses.[1] Federal union members generally cannot bargain over wages and cannot strike, and federal employees are not required to join unions and pay union dues in order to be represented by the union.

Given the budget constraints facing federal agencies, the Subcommittee expressed concern about the amount of time and expenses devoted to union activities and paid for by the federal government. The Subcommittee expressed particular concern about SSA unions regarding the amount of money paid for union activities out of the Social Security trust funds.

As requested, I will focus my remarks on the history of union involvement in the federal government, the statutory basis for the federal government to pay employee salaries and expenses for union activities, and the amount of time spent on and costs associated with union activities at SSA and how the agency accounts for it. The Subcommittee also asked us to comment on how the amount of time and money spent at SSA on union activities compares with what is spent at other large federal agencies, such as the Department of Veterans Affairs (VA) and the Internal Revenue Service (IRS), and how it compares with the amount spent by the U.S. Postal Service, which operates more like a private-sector company. As requested, we have also provided information on union activities in the private sector.

In response to your request, we began our work at SSA in August 1995. To develop this information, we interviewed management and union officials in SSA headquarters and 4 of SSA's 10 regional offices. We also reviewed union contracts, payroll records, and time-reporting forms. To determine the amount of time spent on union activities, we reviewed yearly reports of time spent on union activities and verified the time reported by reviewing source documents at one region and selected headquarters components. We supplemented our field work with telephone calls to three additional SSA regions to verify that similar time reporting procedures were used.

We also met with union and management officials at VA, IRS, and the Postal Service to compare their union time and costs with SSA's. VA does not operate a national union time-reporting system and therefore could not provide data on union activities. Consequently, we are not providing any information concerning VA. At IRS and the Postal Service, we obtained available information on union activity from headquarters and selected field facilities but did not verify its accuracy. We also discussed the role and function of unions in the federal government with the Office of Personnel Management (OPM) and discussed the private-sector use of official time for union activities with labor-relations experts at various trade associations, colleges, and universities. We also reviewed a 1992 Bureau of National Affairs publication that summarized trends in labor/management contracts for private industry. Finally, to determine the types of contract provisions that exist in private industry with regard to the use of official time, we reviewed ten contracts on file at the Bureau of Labor Statistics.

In summary, federal labor/management relations were formalized by executive order in the early 1960s.[2] In 1962, an executive order permitted federal agencies to grant official time for certain meetings between management and union representatives, at the discretion of the agency. The management control prevalent when the first executive order was issued has evolved over time, and today unions operating at federal government agencies have significant involvement in operational and management decisions. The use of official time, which is authorized paid time off from assigned duties for union activities, has become a routine method of union operation in the federal government. OPM officials told us that currently no governmentwide requirement exists to capture or report the amount of official time charged to union activities. They further noted that managers and employees would spend time interacting on personnel and working condition matters even if there were no unions operating at agencies.

We determined that over the last 6 years, the time spent on union activities at SSA has grown from 254,000 to at least 413,000 hours, at a cost to SSA's trust funds of $12.6 million in 1995 alone. That is, SSA currently pays the equivalent of the salaries and expenses of about 200 SSA employees to represent the interests of the approximately 52,000 employees represented by unions at SSA. This cost represents a portion of the $5.5 billion SSA incurred in administrative expenses for fiscal year 1995.

In addition, SSA has reported to the Congress that the number of full-time union representatives, those devoting 75 percent or more of their time to union activities, grew from 80 to 145 between 1993 and 1995. We found, however, that the reporting system for collecting such data does not adequately track the number of union representatives charging time to union activities or the actual time spent. Consequently, we conducted a limited verification of the hours spent on union activities reported by SSA and found that time spent on union activities was underreported. While SSA is currently developing a new system to more accurately track the time spent on union activities, it plans to implement this system to replace only the automated reporting system for union representatives in the field offices and teleservice centers. SSA is not planning to improve the less accurate manual time-reporting system for its other components.

Under the terms of the current SSA union contract negotiated in 1993, the selection of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local managers. We found that over 1,800 designated union representatives in SSA are authorized to spend time on union activities, although most of the time spent is by SSA's 146 full-time representatives. Some SSA field managers told us that their having no involvement in decisions about how much time is spent by individuals and who the individuals are causes problems in managing the day-to-day activities of their operations. Union representatives, on the other hand, told us that the time they use is necessary to fully represent the interests of their coworkers.

SSA reported that it paid for 404,000 hours for union activities in fiscal year 1995, as compared with 442,000 hours reported by IRS in fiscal year 1994, the most recent information available. The Postal Service reported that 1.7 million hours spent on union activities in fiscal year 1995 related to grievances. This Postal Service estimate does not include substantial additional time spent on other types of union activities and paid for by either the unions or the Postal Service.

With regard to union activity in private industry, some employers pay some or all of the salaries and expenses of union representatives, as the federal government does, while others do not.

BACKGROUND

Labor unions are groups of employees organized to bargain with employers over such issues as wages, hours, benefits, and working conditions. The current federal labor/management program differs from nonfederal programs in three important ways: (1) federal unions bargain on a limited number of issues—bargaining over pay and other economic benefits is generally prohibited,[1] (2) strikes and lockouts are prohibited, and (3) federal employees cannot be compelled to join, or pay dues to, the unions that represent them. At SSA, employees are represented by three unions: the American Federation of Government Employees (AFGE), which represents over 95 percent of SSA employees who are represented by a union; the National Treasury Employees Union (NTEU); and the National Federation of Federal Employees (NFFE). Of SSA's 65,000 employees, about 52,000 nonsupervisory employees are represented by the unions, and about 47 percent of those represented are dues-paying union members. Union operations at SSA are governed by a national AFGE contract and six other union contracts with individual NTEU and NFFE components.

At the other federal organizations we visited, five unions had national collective bargaining agreements—four at the Postal Service and one at IRS. There were 751,000 employees represented by unions at the Postal Service and 97,000 at the IRS. Although other unions without national collective bargaining agreements represented Postal Service employees, the number of employees represented by these unions is less than one percent of all represented employees.

There are two main categories of official time, or government paid time spent on union activities, at SSA. The category known as "bank time" in field offices, and equivalent categories of official time in other components, refers to time that is negotiated and limited by SSA contracts with its unions. Bank time includes time spent on union- or employee-initiated grievances (complaints regarding any matter related to employment) as well as on union-initiated activities, such as training or representational duties. The category known as "nonbank time" in field offices, and equivalent categories in other components, generally refers to time spent on management-initiated activities; bargaining over changes to work assignments and working conditions (such as disallowed leave, employee work space, and equipment); management-initiated grievances; and any other time not specifically designated as bank time.

[1] Footnotes at end of article.

HISTORY OF UNION ACTIVITY IN THE FEDERAL GOVERNMENT

In 1912, the Lloyd-LaFollette Act established the right of postal employees to join a union and set a precedent for other federal employees to join unions. The government did little to provide agencies with guidance on labor relations until the early 1960s.

In 1962, President Kennedy issued Executive Order 10988, establishing in the executive branch a framework for federal agencies to bargain with unions over working conditions and personnel practices. The order established a decentralized labor/management program under which each agency had discretion in interpreting the order, deciding individual agency policy, and settling its own contract disputes and grievances.

In 1969, President Nixon issued Executive Order 11491, which established a process for resolving labor disputes in the executive branch by forming the Federal Labor Relations Council to prescribe regulations and arbitrate grievances. This order clarified language to expressly permit bargaining on operational issues for employees adversely affected by organizational realignments or technological changes.

In 1970, the Postal Reorganization Act brought postal labor relations under a structure similar to that applicable to companies in the private sector. Collective bargaining for wages, hours, and working conditions was authorized subject to regulation by the National Labor Relations Board. Like other federal employees, postal employees could not be compelled to join or pay dues to a union and could not strike.

The Civil Service Reform Act of 1978 provided a statutory basis for the current federal labor/management relations program and set up an independent body, the Federal Labor Relations Authority (FLRA), to administer the program. The act expanded the scope of collective bargaining—the process under which union representatives and management bargain over working conditions—to allow routine negotiation of some operational issues, such as the use of technology and the means for conducting agency operations.

In 1993, President Clinton issued Executive Order 12871, which articulated a new vision of labor/management relations, called "Partnership." Partnership required agencies to involve labor organizations as full partners with management in identifying problems and crafting solutions to better fulfill the agency mission. It also expanded the scope of bargainable issues. This new arrangement was intended to end the sometimes adversarial relationship between federal unions and management and to help facilitate implementation of National Performance Review initiatives, which were intended to improve public service and reduce cost of government.

BASIS FOR PAYING SALARIES OF UNION REPRESENTATIVES

In 1962, Executive Order 10988 permitted federal agencies to grant official time, which is authorized paid time off from assigned government duties, for meetings between management and union representatives for contract negotiation, at the discretion of the agency. In 1971, Executive Order 11491 was amended to prohibit the use of official time for contract negotiation unless the agency and union agreed to certain arrangements. Specifically, the agency could authorize either (1) up to 40 hours of official time for negotiation during regular working hours or (2) up to one-half the time actually spent in negotiations. Over the next 4 years, a series of Federal Labor Relations Council decisions and regulations continued to liberalize the use of official time by allowing negotiations for the use of official time for other purposes.

The Civil Service Reform Act of 1978 authorized official time for federal agency union representatives in negotiating a collective bargaining agreement.[4] The act also permitted agencies and unions to negotiate whether union representatives would be granted official time in connection with other labor/management activities, as long as the official time was deemed reasonable, necessary, and in the public interest. The act continued to permit agencies to provide unions with routine services and facilities at agency expense. The act prohibited the use of official time for internal union business, such as solicitation of members.

TIME SPENT ON AND COST OF UNION ACTIVITIES AT SSA

SSA has a national system for reporting time spent on union activities by union representatives. This system is separate from the agency's time and attendance and workload reporting systems. Under this system, union representatives generally fill out and submit forms to their supervisors to account for union time. The hours reported on these forms are then periodically aggregated and submitted to SSA headquarters for totaling. This time-reporting system consists of two component systems that cover roughly an equal number of employees. The first is an automated system that captures time reported by union representatives working in field offices, which are the primary point of public contact with SSA, and at teleservice centers, where calls to SSA's national 800 number are answered. The second component is a manual system used to capture time spent by union representatives at SSA headquarters, as well as at Program Service Centers, the Office of Hearings and Appeals, and other components. Neither system is designed to capture either time spent by management on union-related matters or the number or names of individuals charging union time.

We conducted a limited verification of time captured in SSA's national reporting system at one SSA region and several headquarters components. By tracing source documents for union representatives' time to reported totals in the system, we discovered additional time not captured by the two systems. These gaps occurred primarily in the manual system and resulted from inaccurate reporting from the source documents, overlooked reports for some union representatives, and uncounted reports for some organizational units during certain reporting periods. We also verified that similar procedures were being used at three other regions, which could result in similar underreporting at these locations.

The overall time spent on union activities has grown steadily from 254,000 hours in 1990 to over 413,000 in 1995. This is the equivalent of paying the salaries and other expenses of about 200 SSA employees to represent the 52,000 employees in the bargaining unit in 1995. SSA reported 254,000 hours of official time devoted to union activities in 1990, 269,000 in 1991, 272,000 in 1992, 314,000 in 1993, 297,000 in 1994, and 404,000 in 1995.

Because of limitations in SSA's reporting system, it is not possible to estimate actual time spent agencywide for any reporting period. Although it is likely that the actual time spent agencywide exceeds our estimates, our verification sample was not large enough to be statistically valid, so it cannot be extrapolated to all of SSA.

To determine what contributed to the increase in time spent on union activities, we developed information on the categories of time used.

SSA is currently developing a new system to better track and account for time spent on union activities in its field offices and teleservice centers. SSA says the purpose of this system is to provide management and the union with a more accurate and up-to-date accounting of time spent and the number of employees working on union activities and to ensure that time expended on certain activities does not exceed time allotted to the unions by the contracts. SSA, however, has no current plans to apply this new system to headquarters, the Program Service Centers, the Office of Hearings and Appeals, or other components using the manual system and did not explain why the agency made this decision.

SSA has no system for routinely calculating and reporting the cost of union activity, although it does provide annual estimates of the expenses for union activities to the Congress.

In order to determine the accuracy of these estimates, we tried to construct our own estimate of union-related costs. Because the salaries of union representatives make up most of the cost, we asked SSA for a list of current representatives and the time they spend on union activities. SSA estimated that there were about 1,600 union representatives, but the lists they maintained were outdated and incomplete. We identified about 1,800 union representatives who are currently authorized by the union to spend time on SSA union activities. SSA has also reported to the Congress that the number of full-time representatives—those spending 75 percent or more of their time on union activities—grew from 80 to 145 between fiscal years 1993 and 1995. We identified 145 current full-time representatives. The average annual salary in 1995 for the 146 full-time representatives was $41,970. In 1996, their salaries ranged from $23,092 to $81,217.

We estimate that the total cost to SSA for union activities of all representatives was about $12.6 million in 1995. We calculated the 1995 personnel cost to be $11.4 million by multiplying the average hourly salary of union representatives (about $27.64, including benefits) by the 413,000 hours we estimated the representatives spent on union activities.

The remaining $1.2 million in total SSA costs for union activities includes related travel expenses; SSA's share of arbitration costs; and support costs, such as supplies, office space, and telephone use. More specifically, in accordance with the union contracts, SSA pays for travel related to contract negotiations and grievance cases. In addition, it pays the travel and per-diem costs of all union representatives, whenever meetings are held at management's initiative. Union representation at major SSA initiatives, such as the reengineering of its disability programs, the National Partnership Council, and Partnership training, has added to travel and per-diem costs. In 1995, SSA estimated that it spent about $600,000 on travel-related expenses for union representatives. Union representatives told us that the union pays travel costs for union-sponsored training, internal union activities, and some local travel.

Under the national contract agreements, arbitration fees and related expenses are shared equally between the union and SSA. SSA reported that its share of arbitration costs was $54,000 for the 38 cases heard in 1995.

SSA also incurs other costs for telephones, computers, fax machines, furniture, space and supplies used by union representatives. In 1995, SSA estimated this cost at $500,000.

Regarding the amount of dues collected from union members, we determined that about $4.8 million was collected in 1995, mainly through payroll deduction. The unions use these funds for their internal expenses, which include the cost of lodging and transportation for union-provided training; the union's share of grievance costs; miscellaneous furniture, supplies, and equipment for some union offices; the salaries of the AFGE local president and his staff, who represent SSA headquarters employees; and a share of national union expenses.

The recent advent of Partnership activities in SSA will likely increase the time spent on union activities. The executive order on Partnership directs agencies to involve unions as the representatives of employees to work as full partners with management to design and implement changes necessary to reform government. Partnership activities at SSA are just starting, and we found that these limited activities are not routinely designated by SSA in its union time-reporting system. It is possible that time spent on Partnership activities is currently being reported in other activity categories. Consequently, as Partnership activities increase, we would expect the time devoted to them to also increase. However, this will be evident only if agency time-reporting systems adequately designate this time. It should be noted that many public and private organizations without unions are involving employees in quality management initiatives similar to Partnership activities.

SSA MANAGEMENT AND UNION VIEWS ON UNION TIME

SSA managers and union officials and representatives have offered their views about the use of official time for union activities. SSA managers, both individually and through their managers' associations, have expressed concern to us and to the Congress about limitations in their ability to effectively manage their operations and control the use of time spent by their employees under the current union/management arrangement. By contract, the assignment of union representatives and the amount of time they spend on union activities are determined by the union without the consent of local management.

Of the 31 field managers we interviewed, 21 said that it is more difficult to manage day-to-day office functions because they have little or no control over when and how union activities are conducted. They said that they have trouble maintaining adequate staffing levels in the office to serve walk-in traffic, answer the telephones, and handle routine office workloads. Additionally, 18 expressed concern about the amount of time they spend responding to union requests for information regarding bargaining and grievances. We did not verify the accuracy of any of the field managers' statements. We tried to quantify the time spent by managers on union related activities, but SSA had no time reporting system to track it. However, managers would be spending some of their time interacting with employees about similar issues even if there were no unions.

Nine out of the 15 union officials and representatives we talked to felt that it was counterproductive in the Partnership era to track time spent on union activities. They believe that union representation is an important function that is authorized by a negotiated agreement with SSA that authorizes them to represent the interests of their coworkers. They consider the amount of time currently allocated for their activities as appropriate and believe that more attention should be paid to the value of their efforts than to the time it takes to conduct them.

COMPARISON OF TIME SPENT AND COST OF UNION ACTIVITY AT IRS, THE POSTAL SERVICE AND SSA

The Postal Service and IRS provided data to us on time spent on union activities in their agencies. Postal Service records show that during fiscal year 1995, union representatives at the Postal Service reported spending 1.7 million hours of official time on grievance processing and handling in the early stages. This number does not include substantial amounts of official time spent on employee involvement programs similar to SSA's Partnership activities, which are paid for by the Postal Service. Neither does this number include official time spent on activities such as employee involvement training and ULP charges.

IRS records showed that their union representatives reported spending 442,000 hours on union activities in fiscal year 1994, the most recent year for which data are available. We did not attempt to verify these estimates. In fiscal year 1995, the Postal Service reported spending $29 million in basic pay on grievance processing and handling for the 1.7 million hours. IRS did not develop cost data for union operations.

WHO PAYS UNION COSTS IN PRIVATE INDUSTRY?

Union operations in private industry vary widely. In addition to bargaining over working conditions as SSA unions do, unions in private industry bargain over wages, hours, and benefits. In discussions with National Labor Relations Board officials, we were told that some private-sector firms do not pay their employees' salaries for the time they spend performing union activities, and other firms pay for some or all of the time. For example, during our review of 10 contracts, we found that 7 provided for company employees, acting as union representatives, to perform certain union functions in addition to their company duties, at the expense of the employer. In a 1992 publication that summarized basic patterns in private industry union contracts, the Bureau of National Affairs (BNA) reported that over 50 percent of the 400 labor contracts it analyzed guaranteed pay to employees engaged in union activity on company time. It also reported that 22 percent of the contracts specifically prohibit conducting union activities on company time.

Private-sector employers negotiate company time with pay for union representatives to handle grievances more frequently than they do for contract negotiations. Of the contracts reviewed by BNA, 53 percent guaranteed pay for union representatives to present, investigate, or handle grievances. This practice was reported occurring twice as often in manufacturing as in nonmanufacturing businesses. BNA reported that only 10 percent of the contracts guaranteed pay for employees to negotiate contracts.

Forty-one percent of the private-sector contracts guaranteeing employees pay when they conduct union activities on company time place restrictions on representatives. BNA reported that in 19 percent of the cases with such pay guarantees, management limited the amount of hours that it would pay for. Our review of 10 private-sector contracts submitted to the Bureau of Labor Statistics found one negotiated contract under which employees were limited to 6 hours a day of company time for union representation and another under which they were limited to 8 hours per week of company time for processing grievances.

CONCLUSIONS

SSA, like other federal agencies and some private firms, pays for approved time spent by their employees on union activities. SSA has a special fiduciary responsibility to effectively manage and maintain the integrity of the Social Security trust funds from which most of these expenses are paid. In a time of shrinking budgets and personnel resources, it is especially important for SSA, as well as other agencies, to evaluate how resources are being spent and to have reliable monitoring systems that facilitate this evaluation.

To ensure accurate tracking of time spent on union activities and the staff conducting these activities, SSA has developed and is testing a new time-reporting system for its field offices and teleservice centers. We agree that these are valuable goals for a time-reporting system and believe that it should be implemented agencywide, including at headquarters, Program Service Centers, the Office of Hearings and Appeals, and other components currently using the less reliable manual reporting system. With an improved agencywide system, SSA management should have better information on where its resources are being spent.

Mr. Chairman, this concludes my formal remarks. I would be happy to answer any question from you or other members of the Subcommittee. Thank you.

FOOTNOTES

[1] The U.S. Postal Service generally does not pay the salaries and expenses of full-time union representatives. Instead, salaries and expenses are covered by union dues. The Postal Services does, however, pay for the time spent on union activities by some parttime union representatives and for union-occupied space in postal facilities.

[2] Postal labor/management relations are governed by the Postal Reorganization Act of 1970, which incorporates many provisions of the National Labor Relations Act.

[3] Postal unions, however, can bargain over wages and other economic benefits.

[4] The Postal Service is not governed by this act. The basis for paying certain union representatives for specified union activities at the Postal Service is contained in union contracts. Contract negotiations are carried out at union expense.

By Mr. FRIST:

S. 2105. A bill to amend chapter 29 of title 35, United States Code, to provide for a limitation on patent infringements relating to a medical practitioner's performance of a medical activity; to the Committee on the Judiciary.

PATENT INFRINGEMENTS LIMITATION LEGISLATION

• Mr. FRIST. 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. 2105

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

SECTION 1. LIMITATION ON PATENT INFRINGEMENTS RELATING TO A MEDICAL PRACTITIONER'S PERFORMANCE OF A MEDICAL ACTIVITY.

Section 287 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) With respect to a medical practitioner's performance of a medical activity that constitutes an infringement under section 271 (a) or (b) of this title, the provisions of sections 281, 283, 284, and 285 of this title shall not apply against the medical practitioner or against a related health care entity with respect to such medical activity.

"(2) This subsection does not apply to the activities of any person, or employee or agent of such person (regardless of whether such person is a tax exempt organization under section 501(c) of the Internal Revenue Code of 1986), who is engaged in the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than laboratory services provided in a physician's office), if such activities are—

"(A) directly related to the commercial development, manufacture, sale, importation, or distribution of a machine, manufacture, or composition of matter or the provision of pharmacy or clinical laboratory services (other than clinical laboratory services provided in a physician's office); and

"(B) regulated under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, or the Clinical Laboratories Improvement Act.

"(3) For purposes of this subsection:

"(A) the term 'body' means—

"(i) a human body, organ, or cadaver; or

"(ii) a nonhuman animal used in medical research or instruction directly relating to the treatment of humans.

"(B) The term 'medical activity' means the performance of a medical or surgical procedure on a body, but shall not include—

"(i) the use of a patented machine, manufacture, or composition of matter in violation of such patent;

"(ii) the practice of a patented use of a composition of matter in violation of such patent; or

"(iii) the practice of a process in violation of a biotechnology patent.

"(C) The term 'medical practitioner' means any natural person who is—

"(i) licensed by a State to provide the medical activity described under paragraph (1); or

"(ii) acting under the direction of such natural person in the performance of the medical activity.

"(D) The term 'patented use of a composition of matter' does not include a claim for a method of performing a medical or surgical procedure on a body that recites the use of a composition of matter if the use of that composition of matter does not directly contribute to achievement of the objective of the claimed method.

"(E) The term 'professional affiliation' means staff privileges, medical staff membership, employment or contractual relationship, partnership or ownership interest, academic appointment, or their affiliation under which a medical practitioner provides a medical activity on behalf of, or in association with, a health care entity.

"(F) The term 'related health care entity'—

"(i) means an entity with which a medical practitioner has a professional affiliation under which the medical practitioner performs a medical activity; and

"(ii) includes without limitation such an affiliation with a nursing home, hospital, university, medical school, health maintenance organization, group medical practice, or a medical clinic.

"(G) The term 'State' means any State or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) This subsection shall not apply to any patent issued before the date of enactment of this subsection.".•

By Mr. McCONNELL:

S. 2106. A bill to amend the United Nations Participation Act of 1945 to prohibit the placement of members of the United States Armed Forces under the command, direction, or control of the United Nations, and for other purposes; to the Committee on Foreign Relations.

THE UNITED NATIONS PARTICIPATION ACT OF 1945 AMENDMENT ACT OF 1996

• Mr. McCONNELL. Mr. President, for several months, I have tried to get a straight answer from the administration on the legal justification for the deployment of U.S. troops under United Nations' command in Macedonia. While the soldiers have a mission, I do not believe they have a clear, legal mandate.

The question of our involvement in Macedonia was first brought to my attention by Ron Ray, a constituent of mine who was representing Michael New. Apparently, Michael New asked his commanding officer to provide some explanation as to why an American Army specialist was being asked to wear a U.N. uniform and deploy to Macedonia under the U.N. flag.

In a recent hearing with Ambassador Madeleine Albright, usually one of the more plain spoken members of the President's foreign policy team, we reviewed the procedures for deploying American troops under the United Nation's flag. She offered the view that while there were clear guidelines defining chapter VII deployments, using chapter VI to justify a mission had evolved as a matter of U.N. custom and tradition.

Since 1948, 27 peace operations have been authorized by the United Nations Security Council. In addition to being authorized by a specific chapter of the United Nations Charter, U.S. troop deployments must be authorized consistent with U.S. legal requirements spelled out in the United Nations Participation Act.

In July 1993, President Clinton wrote the Congress stating, "U.N. Security Council Resolution 795 established the UNPROFOR Macedonia mission under a chapter VI of the U.N. Charter and UNPROFOR Macedonia is a peacekeeping force under chapter VI of the Charter." But this assertion is not substantiated by the record of resolutions and reports passed by the United Nations.

Between 1991 and the end of 1995, the United Nations passed 97 Security Council resolutions related to the former Yugoslavia. In addition, 13 reports were issued by the U.N. Secretary General relative to the mandate of the UNPROFOR Macedonia operation. None of these resolutions or reports mention a chapter VI mandate for Macedonia. In fact, there are 27 resolutions which specifically refer to UNPROFOR, which includes Macedonia, as chapter VII. It is worth pointing to just one of these resolutions which states that the United Nations Security Council was "Determined to ensure the security of UNPROFOR and its freedom of movement for all its missions (i.e., Macedonia) and to these ends was acting under chapter VII of the Charter of the United Nations."

In spite of the record, the administration continues to insist that Macedonia is a chapter VI operation. When I asked them to document this determination, I was provided the following guidance by the Acting Assistant Secretary of State:

> The U.N. Charter authority underlying the mandate of a U.N. peace operation depends on an interpretation of the relevant resolutions of the U.N. Security Council. As a matter of tradition, the Security Council explicitly refers to a "Chapter VII" when it authorizes an enforcement operation under that Chapter. The absence of a reference to Chapter VII in a resolution authorizing or establishing a peacekeeping operation thus indicates that the operation is not considered by the Security Council to be an enforcement operation. Neither does the Security Council refer explicitly to "Chapter VI" in its resolutions pertaining to peacekeeping operations. This practice evolved over time as a means for the Security Council to develop practical responses to problems without unnecessarily invoking the full panoply of provisions regarding the use of force under Chapter VII, and without triggering other Charter provisions that might impede Member States on the Security Council if Chapter VI were referenced.

In essence what this explanation means is U.S. troops can be deployed in harm's way as a matter of U.N. tradition rather than U.S. law. It means U.S. soldiers are deployed in a combat zone with an absence of reference to the actual legal mandate because the U.N. Security Council does not want to refer explicitly to chapter VI due to a reluctance to inconvenience member states on the Security Council.

Mr. President, let me try to add a little clarity to just what the Acting Assistant Secretary means when stating the administration does not want to invoke a "panoply of provisions regarding the use of force." In simple English, when a chapter VII mission is authorized by the U.N., U.S. law requires the operation to be approved by the Congress. In simple terms, the State Department is using a chapter VI designation to avoid having to come to the Congress to justify the financial and military burden the United States has assumed in Macedonia.

When the State Department calls a panoply of provisions problem, I call surrendering U.S. interests to U.N. command. This is not the first time Congress has been circumvented. I had hoped the administration had learned

from our experience in Somalia. I had hoped the tragic loss of life would help the President understand the value and importance of a full congressional debate and approval of the merits of deploying American soldiers overseas into hostile conditions. Apparently, the lesson is lost on this administration. When the U.N. calls, we send our young men and women to serve.

Mr. President, I have taken the time to review the circumstances of our military involvement in Macedonia, in order to explain why I am introducing legislation today which assures U.S. troops will not serve under U.N. commanders and will not be forced to wear a U.N. uniform. Our soldiers sign up to serve and pledge allegiance to their Nation—not the United Nations. This bill will protect them as they fulfill both their oath and responsibilities.●

By Mr. THOMAS (for himself, Mr. ROBB and Mr. MCCAIN):

S. 2107. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Mongolia; to the Committee on Finance.

MONGOLIA MOST-FAVORED-NATION STATUS LEGISLATION

Mr. THOMAS. Mr. President, I rise as chairman of the Subcommittee on East Asian and Pacific Affairs to introduce S. 2107, a bill to authorize the extension of nondiscriminatory treatment—formerly known as most-favored-nation status—to the products of Mongolia. I am pleased to be joined by the subcommittee's ranking minority member, Senator ROBB, and Senator MCCAIN as original cosponsors.

Mongolia has undergone a series of remarkable and dramatic changes over the last few years. Sandwiched between the former Soviet Union and China, it was one of the first countries in the world to become Communist after the Russian revolution. After 70 years of Communist rule, though, the Mongolian people recently have made great progress in establishing a democratic political system and creating a free-market economy. Just this year, the country held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties. Rather than attempt to maintain its hold on power, the former government peaceably—and commendably—transferred power to the new government.

Mongolia has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade and related matters since its turn toward democracy. We concluded a bilateral trade treaty with that country in 1991, and a bilateral investment treaty in 1994. Mongolia has received nondiscriminatory trading status since 1991, and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974. In addition, it has acceded to the Agreement Establishing the World Trade Organization.

Mr. President, Mongolia has clearly demonstrated that it is fully deserving of joining the ranks of those countries to which we extend nondiscriminatory trade status. The extension of that status would not only serve to commend the Mongolians on their fine progress, but would also enable the United States to avail itself of all its rights under the WTO with respect to Mongolia.

I have another, more personal, reason for being interested in MFN status for Mongolia. Mongolia and my home State of Wyoming are sister states; a strong relationship between the two has developed over the past 3 years. Several Mongolian Provincial Governors have visited the State, and the two governments have established partnerships in education and agriculture. Like Wyoming, Mongolia is a high plateau with high mountains on the northwest border, where many of the inhabitants make their living by raising livestock. I am pleased to see the development of this mutually beneficial relationship, and am sure that the extension of nondiscriminatory trade status will serve to strengthen it further.

Mr. President, Congressman BEREUTER has introduced similar legislation in the House. While we both realize that it is probably too late in the legislative year to move this bill forward before we adjourn sine die, we hope that introducing the bill now will serve as a starting point to move forward with this important measure early in the next Congress.

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. 2107

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

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that Mongolia—

(1) has received most-favored-nation treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(2) has since ending its nearly 70 years of dependence on the former Soviet Union, made remarkable progress in establishing a democratic political system and creating a free-market economic system;

(3) has recently held its third election under its new constitution, resulting in a parliamentary majority for the coalition of democratic opposition parties and a peaceable transfer of power to the new government;

(4) has concluded a bilateral trade treaty with the United States in 1991, and a bilateral investment treaty in 1994;

(5) has acceded to the Agreement Establishing the World Trade Organization;

(6) has demonstrated a strong desire to build a friendly and cooperative relationship with the United States on trade matters; and

(7) the extension of unconditional most-favored-nation treatment to the products of Mongolia would enable the United States to avail itself of all rights under the World Trade Organization with respect to Mongolia.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO MONGOLIA.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to Mongolia; and

(2) after making a determination under paragraph (1) with respect to Mongolia, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products on Mongolia, title IV of the Trade Act of 1974 shall cease to apply to that country.

By Mr. DORGAN (for himself, Mr. ASHCROFT, Mr. BIDEN, Mr. BREAUX, Mr. COATS, Mr. DEWINE, Mr. FAIRCLOTH, Mr. FORD, Mr. GRASSLEY, Mr. HATFIELD, Mr. INHOFE, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. PRESSLER, and Mr. THURMOND):

S. 2108. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Labor and Human Resources.

THE ASSISTED SUICIDE FUNDING RESTRICTION ACT

● Mr. DORGAN. Mr. President, I rise today, along with my colleague, Senator ASHCROFT, to introduce a piece of legislation. We understand that it is late in the session, but we have just completed work on the legislation, and we hope that introducing it now and reintroducing it in the next Congress will allow us to make some progress toward enacting this bill.

There are 15 original cosponsors besides myself and Senator ASHCROFT: Senators BIDEN, BREAUX, COATS, DEWINE, FAIRCLOTH, FORD, GRASSLEY, HATFIELD, INHOFE, LOTT, MACK, MCCONNELL, MURKOWSKI, PRESSLER, and THURMOND.

This is obviously a bipartisan group of Senators who are today introducing this legislation. I will describe it briefly, and then I will ask my colleague, Senator ASHCROFT from Missouri, with whom I am pleased to introduce this today, to add to that description.

Our legislation is called the Assisted Suicide Funding Restriction Act. That is a rather long name, but simply stated, what this bill ensures is that Federal tax dollars will not be used to pay for assisting in suicide.

We are in a circumstance in this country where only one State—the State of Oregon—has legalized physician-assisted suicides. The State has

every right to do that. And Oregon is now engaged in the courts in a challenge of its law. When and if the court challenge is dismissed and it becomes law in Oregon—as is expected based on an earlier Ninth Circuit Court of Appeals decision—the folks who run the Medicaid Program in Oregon indicate that the State fully intends to use its Medicaid dollars to pay for physician-assisted suicides.

Some of us here in Congress believe that we ought not to in any way countenance the use of Federal dollars in the furtherance of physician-assisted suicides. We are not telling the States what their policies ought to be with respect to whether physician-assisted suicides should be allowed. Most States have already made that judgment and decided that assisted suicide is not appropriate. But to a State that has said it intends to use Federal dollars to further their State policy allowing assisted suicide, we say no. That is not what we would expect Federal dollars, especially Federal health care dollars, to be used for. We would expect Federal health care dollars to be used to advance the health of patients and the delivery of medicine to those in this country who need it—not to advance Federal payment for those who would elect physician-assisted suicide.

Some might say, "Well, why do you have to legislate on this?" I say to them, if we do not, when the courts resolve the legal questions with respect to the Oregon law, we likely will immediately be using Federal dollars to pay for physician-assisted suicide in that State, regardless of whether Congress and the public want them to or not. The officials in that State have indicated that will be the case. So with this legislation we say we think it is inappropriate from a public policy standpoint and we would not want scarce Federal dollars used for that purpose.

I would like to describe what this legislation is not because it is as important as describing what it is.

This legislation does not limit the withholding of, or the withdrawal of, medical treatment, or of nutrition, or hydration from terminally-ill patients who have decided they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Again, this legislation specifically states that we are not interfering with the ability of patients and their families to end or withdrawal treatment.

This legislation also does not prohibit Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. I think we would all agree that we should make the utmost effort to ensure that terminally ill patients do not spend their final days in pain and suffering, and this legislation does not hinder that.

Finally, this legislation does not prohibit a State from using its own dollars to assist in suicide. If a State decides that it wants to allow and pay for physician-assisted suicide as a matter of policy, it can use its own money to further that aim. This bill simply says we do not want Federal dollars used for that purpose.

Mr. President, I understand that the issue of assisted suicide is an enormously emotional one. All of us in this country have read the news accounts of a doctor who is actively involved in assisting in his patients' suicides and of those who have taken him to court saying he has violated their State law. People have very strongly held opinions about this subject because issues of life and death reach to the inner core of people's moral beliefs. But regardless of one's personal views about assisted suicide, there is little disagreement on the broader question of whether we ought to use Federal health care dollars to pay for physician-assisted suicide.

In fact, a national survey earlier this year found that 83 percent of the American people believe that tax dollars should not be used for assisted suicide. I believe this legislation should and will have wide support. The National Conference of Catholic Bishops and the National Right to Life Committee have both endorsed the bill. The American Medical Association and the American Nurses Association have position statements opposing assisted suicide. President Clinton has also indicated his opposition to assisted suicide, and Senator ASHCROFT and I hope that our colleagues will join us as cosponsors of this legislation. We hope to advance this legislation in the intervening days, and also, if necessary, to reintroduce it early in the next session to see if we can get the Congress to enact this legislation soon.

Let me again sum up what this bill would and would not do, along with why it is necessary. Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

Let me say again that I am pleased to work with my colleague, Senator ASHCROFT of Missouri, who I know feels strongly about this issue as well.

Mr. President, this legislation will prohibit Federal funds from being used for the costs associated with assisted suicide.

I understand that the decisions that confront individuals and their families when a terminal illness strikes are among the most difficult a family will ever have to make. At times like this, each of us must rely on our own religious beliefs and conscience to guide us. But regardless of one's personal views about assisted suicide, I do not believe that taxpayers should be forced to pay for this controversial practice. The majority of taxpayers I have talked to do not want their tax money used to assist in suicides. In fact, when asked in a poll in May of this year whether tax dollars should be spent for assisting suicide, 83 percent of taxpayers feel tax money should not be spent for this purpose.

The Assisted Suicide Funding Restriction Act prevents any Federal funding from being used for any item or service which is intended to cause, or assist in causing, the suicide, euthanasia, or mercy killing of any individual. The programs covered under this bill include Medicare, Medicaid, the military health care system, Federal Employees Health Benefits [FEHB] plans, Public Health Service programs, programs for the disabled, and the Indian Health Service.

This bill does make some important exceptions. First, let me make clear that this bill does not limit the withholding or withdrawal of medical treatment or of nutrition or hydration from terminally ill patients who have decided that they do not want their lives sustained by medical technology. Most people and States recognize that there are ethical, moral, and legal distinctions between actively taking steps to end a patient's life and withholding or withdrawing treatment in order to allow a patient to die naturally. Every State now has a law in place governing a patient's right to lay out in advance, through an advanced directive, living will, or some other means, his or her wishes related to medical care at the end of life. Again, this bill would not interfere with the ability of patients and their families to make clear and carry out their wishes regarding the withholding or withdrawal of medical care that is prolonging the patient's life.

This bill also makes clear that it does not prevent Federal funding for any care or service that is intended to alleviate a patient's pain or discomfort, even if the use of this pain control ultimately hastens the patient's death. Large doses of medication are often needed to effectively reduce a terminally ill patient's pain, and this medication may increase the patient's risk of death. I think we all would agree that the utmost effort should be made to ensure that terminally ill patients do not spend their final days in pain and suffering.

Finally, while I think Federal dollars ought not be used to assist a suicide, this bill does not prohibit a State from using its own dollars for this purpose. However, I do not think taxpayers from other States, who have determined that physician-assisted suicide should be illegal, should be forced to pay for

this practice through the use of Federal tax dollars.

I realize that the legality of assisted suicide has historically been a State issue. Thirty-five States, including my State of North Dakota, have laws prohibiting assisted suicide and at least eight other States consider this practice to be illegal under common law. Only one State, Oregon, has a law legalizing assisted suicide.

However, two circumstances have changed that now make this an issue of Federal concern. First, Federal courts are already handing down decisions that will have enormous consequences on our public policy regarding assisted suicide. Second, we are on the brink of a situation where Federal Medicaid dollars may soon be used to reimburse physicians who help their patients die. Should this occur, Congress will not have considered this issue. I believe it was never Congress' intention for Medicaid or other Federal dollars to be used to assist in suicide, and I hope we will take action soon to stop this practice before it starts. If Congress does not act, a few States, or a few judges, may very well make this decision for us.

In two separate cases this year, Compassion in Dying versus State of Washington and Quill versus Vacco, the Federal Ninth and Second Circuit Courts of Appeal, respectively, have struck down Washington and New York State statutes outlawing assisted suicide. In the Compassion in Dying case, the ninth circuit held that the "right to die" is constitutionally recognized and that Washington State's law prohibiting physicians from prescribing life-ending medication therefore violates the "due process" clause of the 14th amendment for terminally ill adults who wish to end their life. In Quill versus Vacco, the second circuit also found that a State law prohibiting physician-assisted suicide violates the Constitution, but it did not agree with the ninth circuit's reasoning that such a law violates the due process clause. Rather, the second circuit held that the New York State law was unconstitutional because it violates the "equal protection" clause of the Constitution. The Supreme Court could decide to take up one or both of these cases as early as next year.

Ironically, in a third case, Lee versus Oregon, a Federal district court judge also used the "equal protection" clause as the basis for his decision—but he ruled that Oregon's 1994 law allowing assisted suicide for the terminally ill violates the Constitution, and the judge enjoined the implementation of Oregon's law. However, this decision has been appealed to the Ninth Circuit Court of Appeals, which has already affirmed a constitutional "right to die." The ninth circuit's decision, which is expected to overturn the district court and lift the injunction against Oregon's law, could be handed down any day. The State's Medicaid director has already stated that, when the injunction against Oregon's law is lifted, Oregon will use Medicaid dollars to pay for the costs associated with a physician assisting in suicide.

I hope you agree with me and the vast majority of Americans who oppose using scarce Federal dollars to pay for assisted suicide. I invite you to join me, Senator ASHCROFT and 15 of our colleagues in this effort by cosponsoring the Assisted Suicide Funding Restriction Act.●

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, let me begin by commending my colleague form North Dakota for his excellent remarks, and his clear explanation of this important concept that I believe the American people would have us do. And, after all, we come to this body as servants of the people. The people are overwhelmingly aware of this issue, and the vast majority of American citizens do not believe that tax dollars should be used in the conduct of medicine in such a way as to take lives rather than to save them.

I thank my colleague from North Dakota and those who have joined us in cosponsoring this particular measure.

Mr. President, President Jefferson wrote in words that are now inscribed on the Jefferson Memorial that the "care and protection of human life, and not its destruction" are the only legitimate objectives of good government. Thomas Jefferson believed that our rights were God-given and that life was an inalienable right.

In this spirit and understanding, I join today with Senator DORGAN in sponsoring the Assisted Suicide Funding Restriction Act. It is a modest and timely response to a challenge to our legal system and a challenge to the moral character of this country. What this bill says simply is that Federal tax dollars shall not be used to pay for and promote assisted suicide, or euthanasia.

This bill is urgently needed to preserve the intent of the Founding Fathers and the integrity of Federal programs as they now exist and serve the elderly and seriously ill in America—programs which were intended to support life and to enhance human life, not to promote its destruction.

Government's role in this culture should be to call us to our highest and best. I do not believe Government has a role in hastening Americans to their graves.

Our court system is in the process now of litigating serious issues in this respect, and, as a result, we find ourselves with the need for this kind of clarifying legislation dramatized. This bill is intended to prevent the morally contemptible injustice of taking money from an American citizen and then using that money to kill another American citizen through assisted suicide.

This is a bill which is very narrowly focused. It is clearly targeted. It only affects Federal funding for actions whose direct purpose is to cause or assist in causing suicide—actions that are clearly condemned as unethical by the American Medical Association and also illegal in the vast majority of our States. Again, this bill simply prohibits any Federal funding for medical actions that assist suicide.

This bill is needed because, in March, the Ninth Circuit Court of Appeals contradicted the positions of 49 States, when it found a "Federal constitutional right" to physician-assisted suicide in a case involving Washington State law. Similarly, the State of Oregon passed Measure 16, the first law in America to authorize the dispensing of drugs to terminally ill patients to assist in their suicide.

Although a Federal court in Oregon struck down the law that Oregon had enacted, the case is being appealed to that same ninth circuit, which has already signaled that it believes in a right, a constitutional right, to assisted suicide.

Oregon's Medicaid director and the chairman of Oregon's Health Services Commission have both said that whenever the ninth circuit allows the Oregon law to go into effect, that the federally funded Medicaid Program in Oregon will begin paying for assisted suicide with Federal taxpayers' funds. According to Oregon's authorities, the procedure would be listed on Medicaid reimbursement forms under the grotesque euphemism of "comfort care."

That is a rather startling, almost Orwellian label to put on assisted suicide. I would think if I were going over an insurance policy and someone said, "Do you want to be covered for comfort care," I would say, "Oh, yes, throw in the comfort care." But comfort care turns out to be a phrase that is destined to be used for assisted suicide, and I do not believe it is intended by this Congress or previous Congresses, or in the law of the United States, that tax dollars from Federal resources be used to support that kind of "comfort care."

The problem is greatly magnified when we consider that Oregon will be drawing down Federal taxpayers' funds to help pay for such assisted suicides. Neither Medicaid nor Medicare nor any other Federal health program has explicit language to prohibit the use of Federal funds to dispense lethal drugs for suicide, primarily because nobody in the history of these programs felt that we would be appropriating money or creating a program to provide for suicide. We felt we were providing for

individuals, developing therapeutic approaches to health problems, not providing for something that the American Medical Association would say was unethical and inappropriate, and which would shock the conscience of most Americans.

When Oregon's ninth circuit reinstates measure 16, Federal funds will be used for comfort care, a.k.a.—also known as—assisted suicide. As a result, I think it is important for us to step up and to define and to place into law the kinds of restrictions which I think we felt were implied in all of our activities prior to this time. We would be derelict in our duty if we were now to ignore this problem and allow a few officials, either in a Federal circuit or in a specific State, to decide that the taxpayers of all other States and jurisdictions would have to help subsidize a practice which they have never authorized and that millions find to be morally abhorrent.

It is crystal clear that the American people do not want their tax dollars spent on dispensing toxic drugs with the sole intent to assist suicide. Recently, a Wirthlin Poll showed 83 percent of the public opposed such use of Federal funds. Even the voters of Oregon, who narrowly approved Measure 16 by a vote of 51 to 49 percent, did not consider the question of public funding. Voters of two other west coast States, California and Washington, soundly defeated similar initiatives to legalize assisted suicide. Since November of 1994, when Oregon passed its law, 15 other States have considered and rejected bills to legalize assisted suicide. Of course, the Federal funding question has never been placed before the people in a ballot initiative.

I would like to say a few words about the way this legislation is crafted. It is very carefully limited, and it is very modest. It does not in any way forbid a State to legalize assisted suicide. If a State like Oregon chooses to do so, the Federal Government does not choose to intrude under this bill, or even forbid the State to provide its own funds.

If the State were to provide for assisted suicide and were to fund that with State dollars, in spite of the fact that is not my idea of good State government, it would be allowed under this bill. This bill simply would prevent Federal funds and Federal programs from being drawn into and providing support for and promoting assisted suicide. After the passage of this bill, States may choose to legalize or even fund assisted suicide. They simply could not choose to draw down Federal funds to promote or develop that program.

The bill also does not attempt to resolve the constitutional issue that is on its way to the Supreme Court, that issue being whether there is a right to assisted suicide or euthanasia. Nor would this legislation be affected by what the Supreme Court might do when it decides that issue. Congress would still have the right to prevent Federal funding of such a practice, even if the Supreme Court found that there was a constitutional right to assisted suicide.

It is also important to understand what this bill does not cover. As its rule of construction clearly provides, it does not affect abortion. It does not affect complex issues, such as the withholding or withdrawal of life-sustaining treatment, even of nutrition and hydration. Nor does this bill affect the disbursing of large doses of morphine or other pain killers to ease the pain of individuals with terminal illnesses, even though the administration of such drugs does, in some cases, carry the risk of hastening death as a side effect. The administration of pain killers is a long-acknowledged, legally accepted practice in all 50 States—and is ethically accepted by the medical profession and even pro-life and religious organizations as well.

What we are dealing with here is the Federal funding of actions whose direct purpose is to cause or assist in causing the suicide of a patient.

I am pleased that in spite of the fact the Democrats and Republicans may disagree on how to reform Federal programs like Medicaid and Medicare, there are things on which we do agree. One thing we should be able to agree on is the measure in this bill. Of course, our agreement is reflected in the cosponsorship of this measure by individuals on both sides of the aisle. These Federal programs should provide a means to care for and to protect our citizens, not become vehicles for the destruction of our citizens, especially as a result of Federal funding.

I would like to close by quoting the hallmark of Jeffersonian principles embodied in the Declaration of Independence:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

I therefore urge all my colleagues to support this bill, an effort to uphold congressional responsibility, to defend the foremost of our unalienable rights, the right that citizens have to life.

By Mr. DASCHLE:

S. 2109. A bill to provide a 1-year delay in the imposition of penalties on small businesses failing to make electronic fund transfers of business taxes; to the Committee on Finance.

SMALL BUSINESS LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation that would waive for 1-year penalties on small businesses that fail to pay their taxes to the Internal Revenue Service [IRS] electronically.

In July of this year, millions of small business owners received a letter from the IRS announcing that, beginning January 1, 1997, business tax payments would have to be made via electronic funds transfer. This letter sent shock waves through the small business community in South Dakota. The letter was vague and provided little information on how the new deposit requirement would work.

In meetings, letters, and phone calls, South Dakotans have posed many questions to me that the IRS letter did not answer: "How much will this cost my business?"; "Will I have to purchase new equipment to make these electronic transfers?"; and "Will the IRS be taking the money directly out of my account?"

As you may recall, this new requirement was adopted as part of a package of revenue offsets for the North American Free-Trade Agreement.

The Treasury Department was directed to draw up regulations phasing in the requirement, which will raise money by eliminating the float banks accrue on the delay between the time they receive tax deposits from businesses and the time they transfer this money to the Treasury.

All businesses with $47 million or more in annual payroll taxes are already required to pay by electronic funds transfer. The new, lower threshold is estimated to bring 1.3 million small- and medium-sized businesses into the program for the first time.

As a result of protests registered by many small businesses, the IRS decided to delay for 6 months the 10 percent penalty on firms failing to begin making deposits electronically by January 1, 1997. Not satisfied with this step, Congress recently passed an outright 6 month delay in the electronic filing requirement as part of the Small Business Job Protection Act of 1996.

I strongly supported this amendment. However, I believe that these 1.3 million businesses should be given further time to comply without the threat of financial penalties. Electronic funds transfer may well prove to be the most efficient system of payment for all concerned, including small businesses. Once they learn the advantages of the new system, these firms may well come to prefer it to the existing one, which requires a special kind of coupon and a lot of paperwork. But this is a new procedure, and many small employers are not sure what it will entail. That is why I believe we should enact a temporary waiver of penalties.

The bill I am introducing today would suspend penalties for noncompliance for 1 year, until July 1, 1998. I believe this step is necessary to provide time for small businesses to be properly educated about the easiest, least burdensome, and most cost-efficient way to comply. In my view, whenever possible the IRS should avoid taking an adversarial approach toward the small business community, and, for

that matter, any taxpayers. At every opportunity, the IRS should seek to help taxpayers comply with their obligations. I believe that, by removing the threat of penalties for a short while longer, this legislation will help the IRS fulfill this important part of its mission.

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. 2109

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

SECTION 1. WAIVER OF PENALTY ON SMALL BUSINESSES FAILING TO MAKE ELECTRONIC FUND TRANSFERS OF TAXES.

No penalty shall be imposed under the Internal Revenue Code of 1986 solely by reason of a failure by a person to use the electronic fund transfer system established under section 6302(h) of such Code if—

(1) such person is a member of a class of taxpayers first required to use such system on or after July 1, 1997, and

(2) such failure occurs during the 1-year period beginning on July 1, 1997.

By Mr. DASCHLE:

S. 2110. A bill to amend the Internal Revenue Code of 1986 to provide special rules for certain gratuitous transfers of employer securities for the benefit of employees; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP PLANS LEGISLATION

Mr. DASCHLE. Mr. President, I today am introducing legislation that would take a small but significant step toward improving the productivity of American businesses and workers. My bill would permit certain employee stock ownership plans [ESOP's] to be beneficiaries of charitable remainder trusts under estate tax law.

We have all heard stories about closely held companies being sold and broken up in order to raise cash to pay a large estate tax bill to the Internal Revenue Service. Not infrequently, a company that has been built over a period of decades is dismantled, cutting adrift employees with years of service.

My bill would provide a way for an owner of a nonpublicly traded company to benefit company employees without having the estate tax stand in the way. It would permit the owner under certain circumstances to donate his or her shares to the company's ESOP through the use of a charitable/ESOP remainder trust. If carried out in accordance with the restrictions set forth in the bill, the transfer would be eligible for an estate tax deduction. By being transferred to an ESOP, the stock would be allocated directly to company employees.

The legislation includes a number of safeguards against abuse. First, stock transferred to an ESOP in this fashion could not be used to benefit any ESOP participant who was related to the decedent or who owned more than 5 percent of the company. This safeguard is aimed at ensuring that no estate tax deduction would be available where the transfer benefited the decedent's family members or the company's major stockholders. Second, the bill would require that the transferred stock be allocated to ESOP participants over time. This would provide an incentive for employees to continue to build the business. It would also prevent the creation of instant windfalls for employees that could encourage them to terminate employment.

Any owner of a non-publicly traded company would be free to take advantage of this legislation to preserve a business beyond his or her death. I believe that quite a few family and closely held businesses will find the legislation of interest, as these firms tend to be run by people who take an interest in their employees and would like to see their companies make a continuing contribution to their communities. I salute these entrepreneurs and propose this modest legislation in an effort to help them realize that goal.

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. 2110

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

SECTION 1. GRATUITOUS TRANSFERS FOR THE BENEFIT OF EMPLOYEES.

(a) IN GENERAL.—Subparagraph (C) of section 664(d)(1) of the Internal Revenue Code of 1986 and subparagraph (C) of section 664(d)(2) of such Code are each amended by striking the period at the end and inserting "or, to the extent the remainder interest is in qualified employer securities (as defined in paragraph (3)(B)), is to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by paragraph (3))."

(b) QUALIFIED GRATUITOUS TRANSFER DEFINED.—Subsection (d) of section 664 of such Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) QUALIFIED GRATUITOUS TRANSFER OF QUALIFIED EMPLOYER SECURITIES.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified gratuitous transfer' means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

"(i) the securities transferred previously passed from a decedent to a trust described in paragraph (1) or (2);

"(ii) no deduction under section 404 is allowable with respect to such transfer;

"(iii) such plan provides that the securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4);

"(iv) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404;

"(v) such plan provides that such securities are held in a suspense account under the plan to be allocated each year, up to the limitations under section 415(c), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415 (c) and (e); and

"(vi) the employer whose employees are covered by the plan described in this subparagraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

"(B) QUALIFIED EMPLOYER SECURITIES.—For purposes of this section, the term 'qualified employer securities' means employer securities (as defined in section 409(l)) which are issued by a domestic corporation which has no outstanding stock which is readily tradable on an established securities market.

"(C) TREATMENT OF SECURITIES ALLOCATED BY EMPLOYEE STOCK OWNERSHIP PLAN TO PERSONS RELATED TO DECEDENT OR 5-PERCENT SHAREHOLDERS.—

"(i) IN GENERAL.—If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

"(I) any person who is related to the decedent (within the meaning of section 267(b)), or

"(II) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

"(ii) 5-PERCENT SHAREHOLDER.—For purposes of clause (i), the term '5-percent shareholder' means any person who owns (directly or through the application of section 318(a)) more than 5 percent of—

"(I) any class of outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation, or

"(II) the total value of any class of outstanding stock of any such corporation; and

For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

"(iii) CROSS REFERENCE.—

"For excise tax on allocations described in clause (i), see section 4979A."

(c) CONFORMING AMENDMENTS.—

(1) Section 401(a)(1) of such Code is amended by inserting "or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(d)(3)(A))," after "stock bonus plans),".

(2) Section 404(a)(9) of such Code is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) A qualified gratuitous transfer (as defined in section 664(d)(3)(A)) shall have no effect on the amount or amounts otherwise deductible under paragraph (3) or (7) or under this paragraph."

(3) Section 415(c)(6) of such Code is amended by adding at the end the following new sentence:

"The amount of any qualified gratuitous transfer (as defined in section 664(d)(3)(A)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall

not be taken into account in determining whether any other amount exceeds the limitations imposed by this section."

(4) Section 415(e) of such Code is amended—

(A) by redesignating paragraph (6) as paragraph (7), and

(B) by inserting after paragraph (5) the following new paragraph:

"(6) SPECIAL RULE FOR QUALIFIED GRATUITOUS TRANSFERS.—Any qualified gratuitous transfer of qualified employer securities (as defined by section 664(d)(3)) shall not be taken into account in calculating, and shall not be subject to, the limitations provided in this subsection."

(5) Paragraph (3) of section 644(e) of such Code is amended to read as follows:

"(3) acquired by a charitable remainder annuity trust (as defined in section 664(d)(1)) or a charitable remainder unitrust (as defined in sections 664(d) (2) and (4)), or".

(6) Subparagraph (B) of section 664(d)(1) of such Code and subparagraph (B) of section 664(d)(2) of such Code are each amended by inserting "and other than qualified gratuitous transfers described in subparagraph (C)" after "subparagraph (A)".

(7) Paragraph (4) of section 674(b) of such Code is amended by inserting before the period "or to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined in section 664(d)(3))".

(8)(A) Section 2055(a) of such Code is amended—

(i) by striking "or" at the end of paragraph (3),

(ii) by striking the period at the end of paragraph (4) and inserting "; or", and

(iii) by inserting after paragraph (4) the following new paragraph:

"(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(d)(3)."

(B) Clause (ii) of section 2055(e)(3)(C) of such Code is amended by striking "section 664(d)(3)" and inserting "section 664(d)(4)".

(9) Paragraph (8) of section 2056(b) of such Code is amended to read as follows:

"(8) SPECIAL RULE FOR CHARITABLE REMAINDER TRUSTS.—

"(A) IN GENERAL.—If the surviving spouse of the decedent is the only beneficiary of a qualified charitable remainder trust who is not a charitable beneficiary nor an ESOP beneficiary, paragraph (1) shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) CHARITABLE BENEFICIARY.—The term 'charitable beneficiary' means any beneficiary which is an organization described in section 170(c).

"(ii) ESOP BENEFICIARY.—The term 'ESOP beneficiary' means any beneficiary which is an employee stock ownership plan (as defined in section 4975(e)(7)) that holds a remainder interest in qualified employer securities (as defined in section 664(d)(3)) to be transferred to such plan in a qualified gratuitous transfer (as defined in section 664(d)(3)).

"(iii) QUALIFIED CHARITABLE REMAINDER TRUST.—The term 'qualified charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664)."

(10) Section 4947(b) of such Code is amended by inserting after paragraph (3) the following new paragraph:

"(4) SECTION 507.—The provisions of section 507(a) shall not apply to a trust which is described in subsection (a)(2) by reason of a distribution of qualified employer securities (as defined in section 664(d)(3)) to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by section 664(d)(3))."

(11) The last sentence of section 4975(e)(7) of such Code is amended by inserting "and section 664(d)(3)" after "section 409(n)"

(12) Subsection (a) of section 4978 of such Code is amended by inserting "or acquired any qualified employer securities in a qualified gratuitous transfer to which section 664(d)(3) applied" after "section 1042 applied".

(13) Paragraph (2) of section 4978(b) of such Code is amended—

(A) by inserting "or acquired in the qualified gratuitous transfer to which section 664(d)(3) applied" after "section 1042 applied", and

(B) by inserting "or to which section 664(d)(3) applied" after "section 1042 applied" in subparagraph (C) thereof.

(14) Subsection (c) of section 4978 of such Code is amended by striking "written statement" and all that follows and inserting "written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3) (as the case may be)."

(15) Paragraph (2) of section 4978(e) of such Code is amended by striking the period and inserting "; except that such section shall be applied without regard to subparagraph (B) thereof for purposes of applying this section and section 4979A with respect to securities acquired in a qualified gratuitous transfer (as defined in section 664(d)(3)(A))."

(16) Subsection (a) of section 4979A of such Code is amended to read as follows:

"(a) IMPOSITION OF TAX.—If—

"(1) there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, or

"(2) there is an allocation described in section 663(d)(3)(C)(i),

there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved."

(17) Subsection (c) of section 4979A of such Code is amended to read as follows:

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

"(1) the employer sponsoring such plan, or

"(2) the eligible worker-owned cooperative,

which made the written statement described in section 664(d)(3)(A)(vi) or in section 1042(b)(3)(B) (as the case may be)."

(18) Section 4979A of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL STATUTE OF LIMITATIONS FOR TAX ATTRIBUTABLE TO CERTAIN ALLOCATIONS.—The statutory period for the assessment of any tax imposed by this section on an allocation described in subsection (a)(2) of qualified employer securities shall not expire before the date which is 3 years from the later of—

"(1) the 1st allocation of such securities in connection with a qualified gratuitous transfer (as defined in section 664(d)(3)(A)), or

"(2) the date on which the Secretary is notified of the allocation described in subsection (a)(2)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made by trusts to, or for the use of, an employee stock ownership plan after the date of the enactment of this Act.

By Mr. McCAIN:

S. 2111. A bill to amend the act commonly known as the Navajo-Hopi Land Settlement Act of 1974, and for other purposes; to the Committee on Indian Affairs.

THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Mr. McCAIN. Mr. President, I introduce legislation to make certain amendments to the Navajo-Hopi Land Settlement Act of 1974 in order to bring the relocation process to an orderly conclusion within 5 years. This legislation will phase out the Navajo-Hopi relocation program by September 30, 2001, and at that time transfer any remaining responsibilities to the Secretary of the Interior. This legislation will provide a time certain for eligible Navajo and Hopi individuals to apply for and receive relocation benefits and after that time the Federal Government will no longer be obligated to provide replacement housing for such individual. Under this legislation, the funds that would have been used to provide replacement housing to such individual will be kept in trust by the Secretary for distribution to the individual or their heirs.

Mr. President, the Navajo-Hopi Land Settlement Act of 1974 was enacted to resolve longstanding disputes that have divided the Navajo and Hopi Indian Tribes for more than a century. The origins of this dispute can be traced directly to the creation of the 1882 reservation for the Hopi Tribe and the creation of the 1934 Navajo Reservation. At the times these reservations were established there were Navajo families residing within the lands set aside for the Hopi Tribe and Hopi families residing on lands set aside for the Navajo Nation. Tensions between the two tribes continued to heighten until in 1958 Congress, in an effort to resolve this dispute, passed legislation that authorized the tribes to file suit in Federal court to quiet title to the 1882 reservation and to their respective claims and rights. That legislation has given rise to more than 35 years of continuous litigation between the tribes in an effort to resolve their respective rights and claims to the land.

In 1974, Congress enacted the Navajo-Hopi Land Settlement Act which established Navajo and Hopi negotiating teams under the auspices of a Federal mediator to negotiate a settlement to the 1882 reservation land dispute. The act also authorized the tribes to file suit in Federal court to quiet title to the 1934 reservation and to file any claims for damages arising out of the dispute against each other or the United States. The act also established a three member Navajo-Hopi Indian Relocation Commission to oversee the relocation of members of the Navajo Nation who were residing on lands partitioned to the Hopi Tribe and members of the Hopi Tribe who were residing on lands partitioned to the Navajo

Nation. Since its establishment, the relocation program has proven to be an extremely difficult and contentious process.

When this program was first established, it was estimated that the cost of relocation would be roughly $40 million to provide relocation benefits to approximately 6,000 Navajos estimated to be eligible for relocation. These figures woefully underestimated the number of families impacted by relocation and the tremendous delays that have plagued this program. To date, the United States has expended over $350 million to relocate more than 11,000 Navajo and Hopi tribal members. There remain over 640 eligible families who have never received relocation benefits and an additional 50 to 100 families who have never applied for relocation benefits. In addition, there are over 130 eligibility appeals still pending. The funding for this settlement has exceeded the original cost estimates by more than 900 percent.

Mr. President, we cannot continue to fund this program with no end in sight. I am convinced that our current Federal budgetary pressures require us to ensure that the Navajo-Hopi relocation housing program is brought to an orderly and certain conclusion. It is for that reason that I am introducing the Navajo-Hopi Land Settlement Act Amendments of 1996. This legislation will phase out the Navajo-Hopi Indian relocation program by September 30, 2001, and transfer the remaining responsibilities under the act to the Secretary of the Interior. Under the bill, the relocation commissioner shall transfer to the Secretary such funds as are necessary to construct replacement homes for any eligible head of household who has left the Hopi partitioned land but has not received a replacement home by September 30, 2001. These funds will be held in trust by the Secretary of the Interior for distribution to such individual or their heirs. In addition, the bill includes provisions establishing an expedited procedure for handling appeals of final eligibility determinations.

Mr. President, I have developed this legislation as an initial starting point for ongoing discussions with the representatives of the Office of Navajo and Hopi Indian Relocation and the administration, the Hopi Tribe, the Navajo Nation, and the affected families of both tribes. It is my hope that this bill will stimulate discussions that will lead to the passage of legislation in the 105th Congress that will bring this long and difficult process to a certain and ordered conclusion.

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:

S. 2111

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

SECTION 1. SHORT TITLE.

SHORT TITLE.—This Act may be cited as the "Navajo-Hopi Land Settlement Act Amendments of 1996".

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

SEC. 101. REFERENCES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to a section or other provision, the references shall be considered to be made to a section or other provision of the Act commonly known as the Navajo-Hopi Land Settlement Act of 1974 (Public law 93-531; 25 U.S.C. 640 et seq.).

SEC. 102. AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974.

(a) REPEALS.—Sections 1 through 5 (25 U.S.C. 640d through 640d-4) and section 30 (25 U.S.C. 640d-28) are each repealed.

(b) AMENDMENTS AND REDESIGNATIONS.—

(1) Section 6 (25 U.S.C. 640d-5) is amended—

(A) by striking the matter preceding subsection (a) through subsection (c);

(B) by inserting the following before subsection (d):

"SECTION 1. PARTITIONED LANDS.

(C) by redesignating subsection (d) as subsection (a);

(D) by striking subsections (e) and (f); and

(E) by redesignating subsections (g) and (h) as subsections (b) and (c), respectively; and

(F) in subsection (a), as so designated, by striking, "In any partition of the surface rights to the joint use area," and inserting the following:

"With regard to the final order issued by the United States District Court for the District of Arizona (hereafter in this Act referred to as the 'District Court') on August 30, 1978, that provides for the partition of surface rights and interest of the Navajo and Hopi tribes (hereafter in this Act referred to as the 'Tribes') by lands laying within the reservation established by Executive order on December 16, 1982,".

(2) Section 7 (25 U.S.C. 640d-6) is amended by striking "SEC. 7. Partitioned" and inserting the following:

"SEC. 2. JOINT OWNERSHIP OF MINERALS.

"Partitioned".

(3) Section 8 (25 U.S.C. 640d-7) is amended—

(A) by striking "SEC. 8. (a) Either tribe" and inserting the following:

"SEC. 3. ACTIONS.

"(a) AUTHORIZATIONS TO COMMENCE AND DEFEND ACTIONS IN DISTRICT COURT.—Either tribe";

(B) in subsection (b), by inserting "ALLOCATION OF LAND TO RESPECTIVE RESERVATIONS UPON DETERMINATIONS OF INTERESTS.—" after "(b)";

(C) in subsection (c)—

(i) by inserting "ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.—" after "(c)"; and

(ii) by striking "section 18" each place it appears and inserting "section 12";

(D) in subsection (d), by inserting "RULE OF CONSTRUCTION.—" after "(d)";

(E) in subsection (e), by inserting "PAYMENT OF LEGAL FEES, COURT COSTS, AND OTHER EXPENSES.—" after "(e)"; and

(F) by striking subsection (f).

(4) Section 9 (25 U.S.C. 640d-8) is amended by striking "SEC. 9. Notwithstanding" and inserting the following:

"SEC. 4. PAUITE INDIAN ALLOTMENTS.

"Notwithstanding".

(5) Section 10 (25 U.S.C. 640d-9) is amended—

(A) by striking "SEC. 10. (a) Subject" and inserting the following:

"SEC. 5. PARTITIONED AND OTHER DESIGNATED LANDS.

"(a) NAVAJO TRUST LANDS.—";

(B) in subsection (a), by striking "sections 9 and 16(a)" and inserting "sections 4 and 10(a)";

(C) in subsection (b)—

(i) by inserting "HOPI TRUST LANDS.—" after "(b)";

(ii) by striking "sections 9 and 16(a)" and inserting "sections 4 and 10(a)";

(iii) by striking "sections 2 and 3" and inserting "section "1" and

(iv) by striking "section 8" and inserting "section 3";

(D) in subsection (c)—

(i) by inserting "PROTECTION OF RIGHTS AND PROPERTY.—" after "(c)"; and

(ii) by striking the comma after "pursuant thereto" and all that follows through the end of the subsection and inserting a period;

(E) in subsection (d), by inserting "PROTECTION OF BENEFITS AND SERVICES.—" after "(d)"; and

(F) in subsection (e)—

(i) by inserting "TRIBAL JURISDICTION OVER PARTITIONED LANDS.—" after "(e)"; and

(ii) in the last sentence, by striking "life tenants and".

(6) Section 11 (25 U.S.C. 640d-10) is amended—

(A) by striking "SEC. 11. (a) The Secretary" and inserting the following:

"SEC. 6. RESETTLEMENT LANDS FOR NAVAJO TRIBE.

"(a) TRANSFER OF LANDS.—The Secretary";

(B) in subsection (b), by inserting "PROXIMITY OF LANDS TO BE TRANSFERRED OR ACQUIRED.—" before "(b)";

(C) in subsection (c)—

(i) by inserting "SELECTION OF LANDS TO BE TRANSFERRED OR ACQUIRED.—" after "(c)"; and

(ii) by striking the period at the end and inserting the following: ": *Provided further*, That the authority of the Commissioner to select lands under this subsection shall terminate on September 30, 2000.";

(D) in subsection (d), by inserting "REPORTS.—" after "(d)";

(E) in subsection (e), by inserting "PAYMENTS.—" after "(e)";

(F) in subsection (f), by inserting "Acquisition of Title To Surface and Subsurface Interests.—" after "(f)";

(G) in subsection (g), by inserting "LANDS NOT AVAILABLE FOR TRANSFER.—" after "(g)"; and

(H) in subsection (h)—

(i) by inserting "ADMINISTRATION OF LANDS TRANSFERRED OR ACQUIRED.—" after "(h)";

(ii) by striking the period at the end and inserting the following: ": *Provided further*, That, in order to facilitate relocation, in the discretion of the Commissioner, the Commissioner may grant homesite leases on land acquired pursuant to this section to members of the extended family of a Navajo who is certified as eligible to receive benefits under this Act, except that the Commissioner may not expend, or otherwise make available funds made available by appropriations to the Commissioner to carry out this Act, to provide housing to those extended family members."; and

(I) in subsection (i)—

(i) by inserting "NEGOTIATIONS REGARDING LAND EXCHANGES OR LEASES." after "(i); and

(ii) by striking "section 23" and inserting "section 18".

(7) Section 12 (25 U.S.C. 640d-11) is amended—

(A) by striking "SEC. 12. (a) There is hereby" and inserting the following:

"SEC. 7. OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION.

"(a) ESTABLISHMENT.—There is hereby";

(B) in subsection (b), by inserting "APPOINTMENT.—" after "(b)";

(C) in subsection (c), by inserting "CONTINUATION OF POWERS.—" after "(c)";

(D) in subsection (d), by inserting "POWERS OF COMMISSIONER.—" after "(d)";

(E) in subsection (e), by inserting "ADMINISTRATION.—" after "(e)";

(F) in subsection (f) and by inserting the following:

"(f) TERMINATION.—The Office of Navajo and Hopi Indian Relocation shall cease to exist on September 30, 2001. On that date, any functions of the Office that have not been fully discharged, as determined in accordance with this Act shall be transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996."; and

(G) by adding at the end the following new subsections:

"(g) OFFICE OF RELOCATION.—Effective on October 1, 2001, there is established in the Department of the Interior an Office of Relocation. The Secretary of the Interior, acting through the Office of Relocation, shall carry out the functions of the Office of Navajo and Hopi Indian Relocation transferred to the Secretary of the Interior in accordance with title III of the Navajo-Hopi Land Settlement Act Amendments of 1996.

"(h) TERMINATION OF OFFICE OF RELOCATION.—The Office of Relocation shall cease to exist on the date on which the Secretary of the Interior determines that the functions of the Office have been fully discharged.".

(8) Section 13 (25 U.S.C. 640d-12) is amended—

(A) by striking "SEC. 13. (a) Within" and inserting the following:

"SEC. 13. REPORT CONCERNING RELOCATION OF HOUSEHOLD AND MEMBERS OF EACH TRIBE.

"(a) IN GENERAL.—Within'"

(B) in subsection (b), by inserting "CONTENT OF REPORT.—" after "(b)"; and

(C) in subsection (c), by inserting "DETAILED PLAN FOR RELOCATION.—" after "(c)";

(9) Section 14 (25 U.S.C. 640d-13) is amended—

(A) by striking "SEC. 14. (a) Consistent" and inserting the following:

"SEC. 8. RELOCATION OF HOUSEHOLDS AND MEMBERS.

"(a) AUTHORIZATION.—;

(B) in subsection (a)—

(i) in the first sentence—

(I) by striking "section 8" each place it appears and inserting "section 3"; and

(II) by striking "sections 2 and 3" and inserting "section 1"; and

(ii) by striking the second sentence;

(C) in subsection (b)—

(i) by inserting "ADDITIONAL PAYMENTS TO HEADS OF HOUSEHOLDS" after "(b)"; and

(ii) by striking "section 15" and inserting "section 9";

(D) in subsection (c), by inserting "PAYMENTS FOR PERSONS MOVING AFTER A CERTAIN DATE.—"; and

(E) by adding at the end the following new subsection:

"(d) PROHIBITION.—No payment for benefits under this Act may be made to any head of a household if, as of September 30, 2001, that head has not been certified as eligible to receive those payments.".

(10) In section 15 (25 U.S.C. 640d-14)—

(A) by striking "SEC. 15. (a) The Commission" and inserting the following:

"SEC. 9. RELOCATION HOUSING.

"(a) PURCHASE OF HABITATION AND IMPROVEMENTS.—The Commission";

(B) in the last sentence of subsection (a), by striking "as determined under section 13(b)(2) of this title";

(C) in subsection (b), by inserting "REMBURSEMENT FOR MOVING EXPENSES AND PAYMENT FOR REPLACEMENT DWELLING.—" after "(b)";

(D) in subsection (c)—

(i) by inserting "STANDARDS; CERTAIN PAYMENTS.—" after "(c)";

(ii) by striking "section 8" and inserting "section 3"; and

(iii) by striking "section 3 or 4 of this title" and inserting "section 1";

(E) in subsection (d), by inserting "METHODS OF PAYMENT.—"after "(d)";

(F) by striking subsection (g);

(G) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(H) by inserting after subsection (d) the following new subsections:

"(e) BENEFITS HELD IN TRUST.—

"(1) IN GENERAL.—On September 30, 2001, the Commissioner shall notify the Secretary of the Interior (hereafter in this subsection referred to as the 'Secretary') of the identity of any head of household that is certified as eligible to receive benefits under this Act (hereafter in this subsection referred to as an 'eligible head of household') who, as of such date—

"(A) does not reside on lands that have been partitioned to the tribe of that eligible head of household; and

"(B) has not received a replacement home.

"(2) TRANSFER OF FUNDS.—On the date specified in paragraph (1), the Commissioner shall transfer to the Secretary any unexpended funds that were made available to the Commissioner for the purpose of making payments under this Act to the eligible heads of household referred to in paragraph (1).

"(3) DISPOSITION OF TRANSFERRED FUNDS.—

"(A) IN GENERAL.—The Secretary shall hold the funds transferred under paragraph (2) in trust for the eligible heads of household referred to in paragraph (1). The Secretary shall provide payments in amounts that would have otherwise have been made to an eligible head of household before the date specified in paragraph (1) from the amounts held in trust—

"(i) upon request of the eligible head of household, to be used for a replacement home; or

"(ii) if the eligible head of household does not make a request under clause (i), upon the death of the eligible head of household, in accordance with subparagraph (B).

"(B) DISTRIBUTION OF FUNDS UPON THE DEATH OF AN ELIGIBLE HEAD OF HOUSEHOLD.—If, upon the death of an eligible head of household, the Secretary holds funds in trust under this paragraph for that eligible head of household, the Secretary shall—

"(i) determine and notify the heirs of the head of household; and

"(ii) distribute the funds to—

"(I) the heirs who have attained the age of 18; and

"(II) each remaining heir, at the time that the heir attains the age of 18.

"(f) NOTIFICATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner shall, in accordance with section 700.138 of title 25, Code of Federal Regulations, notify each eligible head of household who has not entered into a lease with the Hopi Tribe to reside on lands partitioned to the Hopi Tribe.

"(2) LIST.—Upon the expiration of the notice periods referred to in section 700.139 of title 25, Code of Federal Regulations, the Commissioner shall forward to the Secretary and the United States Attorney for the District of Arizona a list containing the name and address of each eligible head of household who—

"(A) continues to reside on lands that have not been partitioned to the tribe of that eligible head of household; and

"(B) has not entered into a lease to reside on those lands.

"(3) CONSTRUCTION OF REPLACEMENT HOMES.—Before July 1, 1999, the Commissioner may commence construction of a replacement home on the lands acquired under section 6 not later than 90 days after receiving a notice of the imminent removal of a relocatee from the lands partitioned under this Act to the Hopi Tribe from—

"(A) the Secretary; or

"(B) the United States Attorney for the District of Arizona.";

(I) in subsection (g), as redesignated by subparagraph (G)—

(i) by inserting "DISPOSAL OF ACQUIRED DWELLINGS AND IMPROVEMENTS.—" after "(g)"

(ii) by striking "section 8" and inserting "section 3"; and

(iii) by striking "section 3 or 4 of this title" and inserting "section 1";

(J) in subsection (h), as redesignated by subparagraph (G), by inserting "PREFERENTIAL TREATMENT FOR HEADS OF HOUSEHOLDS OF THE NAVAJO TRIBE EVICTED FROM THE HOPE RESERVATION BY JUDICIAL DECISION.—"; AND

(K) by adding after subsection (h) the following new subsections:

"(i) APPEALS.—

"(1) IN GENERAL.—The Commissioner shall establish an expedited hearing procedure that shall apply to an appeal relating to the denial of eligibility for benefits under this Act (including the regulations issued under this Act) that is—

"(A) pending on the date of enactment of Navajo-Hopi Land Settlement Act Amendments of 1996; or

"(B) filed after the date specified in subparagraph (A).

"(2) FINAL DETERMINATIONS.—The hearing procedure established under paragraph (1) shall—

"(A) as necessary, provide for a hearing before an impartial third party; and

"(B) ensure the achievement of a final determination by the Office of Navajo and Hopi Indian Relocation for each appeal described in that paragraph not later than January 1, 1999.

"(3) NOTICE.—

"(A) IN GENERAL.—Not later than 30 days after the date of enactment of the Navajo-Hopi Land Settlement Act Amendments of 1996, the Commissioner, shall provide written notice to any individual that the Commissioner determines may have the right to a determination of eligibility for benefits under this Act.

"(B) REQUIREMENTS FOR NOTICE.—The notice provided under this paragraph shall—

"(i) specify that a request for a determination of eligibility referred to in subparagraph (A) shall be presented to the Commission not later than 180 days after the date of issuance of the notice; and

"(ii) be provided—

"(I) by mail (which may be carried out by a means other than certified mail) to the last known address (if available) of the recipient; and

"(II) in a newspaper of general circulation in the geographic area in which an address referred to in subclause (I) is located.

"(j) PROCUREMENT OF SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, to ensure the full and fair evaluation of the requests referred to in subsection (i)(3)(A) (including an appeal hearing before an impartial third party referred to in subsection (i)(2)(A)), the Commissioner may enter into such contracts or agreements to procure such services, and employ such personnel (including attorneys), as are necessary.

"(2) DETAIL OF ADMINISTRATIVE LAW JUDGES OR HEARING OFFICERS.—The Commissioner may request the Secretary to act through the Director of the Office of Hearings and Appeals of the Department of the Interior, to make available, by detail or other appropriate arrangement, to the Office of Navajo and Hopi Indian Relocation, an administrative law judge or other hearing officer with appropriate qualifications to review the requests referred to in subsection (i)(3)(A).

"(k) APPEAL TO UNITED STATES CIRCUIT COURT OF APPEALS.—

"(1) IN GENERAL.—Subject to paragraph (3), any individual who, under the procedures established by the Commissioner under this section, is determined not to be eligible to receive benefits under this Act may appeal that determination to the United States Circuit Court of Appeals for the Ninth Circuit (hereafter in this subsection referred to as the 'Circuit Court').

"(2) REVIEW.—

"(A) IN GENERAL.—The Circuit Court shall, with respect to each appeal referred to in paragraph (1)—

"(i) review the entire record (as certified to the Circuit Court under paragraph (3) on which a determination of the ineligibility of the appellant to receive benefits under this Act was based; and

"(ii) on the basis of that review, affirm or reverse that determination.

"(B) STANDARD OF REVIEW.—The Circuit Court shall affirm any determination that the Circuit Court determines to be supported by substantial evidence.

"(3) NOTICE OF APPEAL.—

"(A) IN GENERAL.—An individual who appeals a determination of ineligibility under paragraph (1) shall, not later than 30 days after the date of that determination, file a notice of appeal with—

"(i) the Circuit Court; and

"(ii) the Commissioner.

"(B) CERTIFICATION OF RECORD.—Upon receipt of a notice provided under subparagraph (A)(ii), the Commissioner shall certify to the Circuit Court the record on which the determination that is the subject of the appeal was made.

"(C) REVIEW PERIOD.—The Circuit Court shall conduct a review and render a decision under paragraph (2) not later than 60 days after receiving a certified record under subparagraph (B).

"(D) BINDING DECISION.—A decision made by the Circuit Court under this subsection shall be final and binding on all parties.

(11) Section 16 (25 U.S.C. 640d–15) is amended—

(A) by striking "SEC. 16. (a) The Navajo" and inserting the following:

"SEC. 10. PAYMENT OF FAIR RENTAL VALUE FOR USE OF LANDS.

"(a) IN GENERAL.—The Navajo";

(B) in subsection (a), by striking "sections 8 and 3 or 4" and inserting "sections 1 and 3"; and

(C) in subsection (b)—

(i) by inserting "PAYMENT.—" after "(b)"; and

(ii) by striking sections 8 and 3 or 4" and inserting "sections 1 and 3".

(12) Section 17 (25 U.S.C. 640d–16) is amended—

(A) by striking "SEC. 17. (a) Nothing" and inserting the following:

"SEC. 11. STATUTORY CONSTRUCTION.

(a) IN GENERAL.—Nothing"; and

(B) in subsection (b), by inserting "FEDERAL EMPLOYEES.— after "(b)".

(13) Section 18 (25 U.S.C. 640d–17) is amended—

(A) by striking "SEC. 18. (a) Either" and inserting the following:

"SEC. 12. ACTIONS FOR ACCOUNTING, FAIR VALUE OF GRAZING, AND CLAIMS FOR DAMAGES TO LAND.

"(a) Either";

(B) in the matter preceding paragraph (1) in subsection (a), by striking "section 3 or 4" and inserting "section 1";

(C) in subsection (b)—

(i) by inserting "DEFENSES.—" after "(b)";

(ii) by striking "section 3 or 4" and inserting "section 1";

(D) in subsection (c), by inserting "FURTHER ORIGINAL, ANCILLARY, OR SUPPLEMENTARY ACTS TO INSURE QUIET ENJOYMENT.—" after "(c)";

(E) in subsection (d), by inserting "UNITED STATES AS PARTY; JUDGMENTS AGAINST THE UNITED STATES" after "(d)"; and

(F) in subsection (e), by inserting "REMEDIES" after "(e)".

(14) Section 19 (25 U.S.C. 640d–18) is amended—

(A) by striking "SEC. 19. (a) Notwithstanding" and inserting the following:

"SEC. 14. REDUCTION IN LIVESTOCK WITH JOINT USE.

"(a) IN GENERAL.—Notwithstanding";

(B) in subsection (a), by striking "section 3 or 4" and inserting "section 1";

(C) in subsection (b)—

(i) by inserting "SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—" after "(b)";

(ii) by striking "sections 8 and 3 or 4" and inserting "sections 1 and 3";

(D) in subsection (c)—

(i) by inserting "COMPLETION OF SURVEYING, MONUMENTING, AND FENCING OPERATIONS; LIVESTOCK REDUCTION PROGRAM.—" after "(c)";

(ii) by striking "section 4 of this title" and inserting "section 1"; and

(iii) by striking "section 8" and inserting "section 3".

(15) Section 20 (25 U.S.C. 640d–19) is amended by striking "SEC. 20. The members" and inserting the following:

"SEC. 15. PERPETUAL USE OF CLIFF SPRINGS FOR RELIGIOUS CEREMONIAL USES; PIPING OF WATER FOR USE BY RESIDENTS.

The members".

(16) Section 21 (25 U.S.C. 640d–20) is amended by striking "SEC. 21. Notwithstanding" and inserting the following;

"SEC. 16. USE AND RIGHT OF ACCESS TO RELIGIOUS SHRINES ON RESERVATION OF OTHER TRIBE.

Notwithstanding".

(17) Section 22 (25 U.S.C. 640d–21) is amended by striking "SEC. 22. The availability " and inserting the following:

"SEC. 17. EXCLUSION OF PAYMENTS FROM CERTAIN FEDERAL DETERMINATIONS OF INCOME.

The availability".

(18) Section 23 (25 U.S.C. 649d–22) is amended—

(A) by striking "SEC. 23. The Navajo" and inserting the following:

"SEC. 18. AUTHORIZATION FOR EXCHANGE OF RESERVATION LANDS.

The Navajo"; and

(B) by striking "sections 14 and 15" and inserting "sections 8 and 9".

(19) Section 24 (25 640d–23) is amended by striking "SEC. 24. If" and inserting the following:

"SEC. 19. SEVERABILITY OF PROVISIONS.

If".

(20) Section 25 (25 U.S.C. 640d–24) is amended to read as follows:

"SEC. 20 AUTHORIZATIONS OF APPROPRIATIONS.

"(a) IN GENERAL.—

"(1) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out the provisions of section 9, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 through 2002.

"(2) RETURN TO CARRYING CAPACITY AND INSTITUTION OF CONSERVATION PRACTICES.—For the purposes of carrying out section 14(a), there are authorized to be appropriated $10,000,000.

"(3) SURVEY LOCATION OF MONUMENTS AND FENCING OF BOUNDARIES.—For the purpose of carrying out section 14(b), there are authorized to be appropriated $500,000.

"(4) RELOCATION OF HOUSEHOLDS AND MEMBERS.—For the purposes of carrying out section 8(b) there are authorized to be appropriated $13,000,000.".

(21) Section 26 (88 Stat. 1723) is repealed.

(22) Section 27 (25 U.S.C. 640d–25) is amended—

(A) by striking "SEC. 27." and all that follows through subsection (b)" and inserting the following:

"SEC. 21. FUNDING AND CONSTRUCTION OF HOPI HIGH SCHOOL AND MEDICAL CENTER."; and

(B) in subsection (c), by striking "(c)".

(23) Section 28 (25 U.S.c. 640d–26) is amended-

(A) by striking "SEC. 28. (a) No action" and inserting the following:

"SEC. 22. ENVIRONMENTAL IMPACT; APPLICABILITY OF WILDERNESS STUDY; CANCELLATION OF GRAZING LEASES AND PERMITS.

"(a) IN GENERAL.—No action";

(B) in subsection (b), by inserting "EFFECT OF WILDERNESS STUDY.—" after "(b)"; and

(C) by adding at the end the following new subsection:

"(c) CONSTRUCTION REQUIREMENTS.—

"(1) IN GENERAL.—Any construction activities that are undertaken under this Act shall be conducted in compliance with sections 3 through 7 of Public Law 86–523 (16 U.S.C. 469a–1 through 469c).

"(2) COMPLIANCE WITH OTHER REQUIREMENTS.—With respect to any construction activity referred to in paragraph (1), compliance with the provisions referred to in that paragraph shall be considered to satisfy the applicable requirements of—

"(A) the Act entitled "an Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (Public Law, 89–665); and

"(B) the Act entitled "An Act for the preservation of American antiquities", approved June 8, 1906 (34 Stat. 225, chapter 3060).".

(24) Section 29 (25 U.S.C. 640d–27) is amended—

(A) by striking "SEC. 29. (a) In any" and inserting the following:

"SEC. 23. ATTORNEY FEES, COSTS AND EXPENSES FOR LITIGATION OR COURT ACTION.

"(a) PAYMENT BY SECRETARY; AUTHORIZATION OF APPROPRIATIONS.—In any;

(B) in subsection (b) by inserting "AWARD BY COURT.—" after "(b)";

(C) in subsection (c) by inserting "EXCESS DIFFERENCE.—" after "(c)"; and

(D) in subsection (d)—

(i) by inserting "LITIGATION OF COURT ACTIONS APPLICABLE.—" after "(d)"; and

(ii) by striking "section 8" and inserting "section 3".

(25) Section 31 (25 U.S.C. 640d–29) is amended—

(A) by striking "SEC. 31. (a) Except" and inserting the following:

"SEC. 24. LOBBYING.

"(a) IN GENERAL.—Except"; and

(B) in subsection (b), by inserting "APPLICABILITY.—" before "(b)".

(26) The first section designated as section 32 (25 U.S.C. 640d–30), as added by section 7 of the Navajo-Hopi Relocation Act Amendments of 1988, is amended—

(A) by striking "SEC. 32. (a) There" and inserting the following:

"SEC. 25. NAVAJO REHABILITATION TRUST FUND.

(a) IN GENERAL.—There";

(B) in subsection (b), by inserting "DEPOSIT OF INCOME INTO FUND.—" after "(b)";

(C) in subsection (c), by inserting "INVESTMENT OF FUNDS.—" after "(c)";

(D) in subsection (d), by inserting "AVAILABILITY OF FUNDS.—" after "(d);

(E) in subsection (e), by inserting "EXPENDITURE OF FUNDS.—" after "(e)";

(F) in subsection (f), by inserting "TERMINATION OF TRUST FUND.—" after "(f)"; and

(G) in subsection (g), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after "(g)".

(27) Section 32 (25 U.S.C. 640d–31), as added by section 407 of the Arizona-Idaho Conservation Act of 1988m, is amended by striking "SEC. 32. Nothing" and inserting the following:

"SEC. 26. AVAILABILITY OF FUNDS FOR RELOCATION ASSISTANCE REGARDLESS OF PLACE OF RESIDENCE.

Nothing".

TITLE II—PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SEC. 201. RETENTION PREFERENCE.

The second sentence of section 3501(b) of title 5, United States Code, is amended—

(1) by striking by striking "or" after "Senate" and inserting a comma;

(2) by striking "or" after "Service" and inserting a comma; and

(3) by inserting ", or to an employee of the Office of Navajo and Hopi Indian Relocation before the period.

SEC. 202. SEPARATION PAY.

(a) IN GENERAL.—Chapter 55 title 5, United States Code, is amended by adding at the end the following new section:

"§ 5598 Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), the Commissioner of the Office of Navajo and Hopi Indian Relocation shall establish a program to offer separation pay to employees of the Office of Navajo and Hopi Indian Relocation (hereafter in this section referred to as the 'Office') in the same manner as the Secretary of Defense offers separation pay to employees of a defense agency under section 5597.

"(b) SEPARATION PAY.—

"(1) IN GENERAL.—Under the program establish under subsection (a), the Commissioner of the Office may offer separation pay only to employees within the occupational groups or at pay levels that will minimize disruption of ongoing Office programs at the time that the separation pay is offered.

"(2) REQUIREMENT.—Any separation pay offered under this subsection shall—

"(A) be paid in a lump sum;

"(B) be in an amount equal to $25,000, if paid on or before December 31, 1998;

"(C) be in an amount equal to $20,000, if paid after December 31, 1998, and before January 1, 2000;

"(D) be in an amount equal to $15,000, if paid after December 31, 1999, and before January 1, 2001;

"(E) not—

"(i) be a basis for payment;

"(ii) be considered as income for the purposes of computing any other type of benefit provided by the Federal Government; and

"(F) if an individual is otherwise entitled to receive any severance pay under section 5595 on the basis of any other separation, not be payable in addition to the amount of the severance pay to which that individual is entitled under section 5595.

"(c) PROHIBITION.—No amount shall be payable under this section to any employee of the Office for any separation occurring after December 30, 2000."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 5 is amended by adding at the end the following new item:

"5598. Separation pay for certain employees of the Office of Navajo and Hopi Indian Relocation.".

SEC. 203. IMMEDIATE RETIREMENT.

Section 8336(j)(1)(B) of title 5, United States Code, is amended by inserting "or was employed by the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that employee" before the final comma.

SEC. 204. COMPUTATION OF ANNUITY.

Section 8339(d) of title 5, United States Code is amended by adding at the end the following new paragraph:

"(8) The annuity of an employee of the Office of Navajo and Hopi Indian Relocation described in section 8336(j)(1)(B) shall be determined under subsection 9a), except that with respect to service of that employee on or after January 1, 1990, the annuity of that employee shall be—

"(A)(i) 2½ percent of the employee's average pay; multiplied by

"(ii) so much of the employee's service on or after January 1, 1990, as does not exceed 10 years; plus

"(B)(i) a percent of the average pay of the employee; multiplied by

"(ii) so much of the service of the employee on or after January 1, 1990, as exceeds 10 years.".

SEC. 205. IMMEDIATE RETIREMENT.

Section 8412 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(i) An employee of the Office of Navajo and Hopi Indian Relocation is entitled to an annuity if that employee—

"(1) has been continuously employed in the Office of Navajo and Hopi Indian Relocation during the period beginning on January 1, 1990, and ending on the date of separation of that individual; and

"(2)(A) has completed 25 years of service at any age; or

"(B) has attained the age of 50 years and has completed 20 years of service.".

SEC. 206. COMPUTATION OF BASIC ANNUITY.

Section 8415 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(h) The annuity of an employee retiring under section 8412(i) shall be determined under subsection (d), except that with respect to service during the period beginning on January 1, 1990, the annuity of the employee shall be—

"(1)(A) 2 percent of the average pay of that individual; multiplied by

"(B) so much of the total service of that individual as does not exceed 10 years; plus

"(2)(A) 1½ percent of the average pay of the individual; multiplied by

"(B) so much of the total service of that individual as exceeds 10 years.".

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 302. TRANSFER OF FUNCTIONS.

Effective on the date specified in section 307, there are transferred to the Department of the Interior all functions which Office of Navajo and Hopi Relocation exercised before the date of the enactment of this title (including all related functions of any officer or employee of the Office of Navajo and Hopi Relocation) relating to functions of the Office that have not been fully discharged, as determined in accordance with the Act commonly known as the "Navajo-Hopi Land Settlement Act of 1974" (Public law 93–531; 25 U.S.C. 640 et seq.).

SEC. 303. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS.

Except as otherwise provided in this Act and the amendments made by this Act, the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of the Interior. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 304. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or be a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of the Interior or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDING NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Office of Navajo and Hopi Relocation at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeal taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against Office of Navajo and Hopi Relocation, or by or against any individual in the official capacity of such individual as an Office of Navajo and Hopi Relocation, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by Office of Navajo and Hopi Relocation relating to a function transferred under this title may be continued by the Department of the Interior with the same effect as if this title had not been enacted.

SECTION-BY-SECTION SUMMARY OF THE NAVAJO-HOPI LAND SETTLEMENT ACT AMENDMENTS OF 1996

Section 1. Short Title. This section provides that the bill may be cited as the "Navajo-Hopi Land Settlement Act Amendments of 1996".

TITLE I—AMENDMENTS TO THE NAVAJO-HOPI LAND SETTLEMENT ACT OF 1974

Section 101. References. This section provides that whenever an amendment or repeal is expressed in this Act it shall be considered to be made to a section of the Navajo-Hopi Land Settlement Act of 1974 (25 U.S.C. §§640 et seq.).

Section 102. Amendments to the Navajo and Hopi Settlement Act. This section sets forth amendments to the Navajo-Hopi Land Settlement Act of 1974.

Subsection (a) repeals six sections of the Act in their entirety: Section 1 (25 U.S.C. §640d) relating to the appointment and duties of the mediator; Section 2 (25 U.S.C. §640d-1) relating to the appointment and duties of the Navajo and Hopi negotiating teams; Section 3 (25 U.S.C. §640-d-2) relating to the implementation of any agreements reached by the tribal negotiating teams; Section 4 (25 U.S.C. §640d-3) relating to the procedures to be used by the mediator and the Federal District Court in the event that the tribal negotiating teams did not reach agreement; Section 5 (25 U.S.C. §640d-4) relating to other recommendations by the mediator to the Federal District Court; Section 30 (25 U.S.C. §640d-28) relating to the provision of life estates to Navajos residing on lands partitioned to the Hopi Tribe.

Subsection (b) redesignates section 6 (25 U.S.C. §640d-5) as section 1 and amends the provisions of this section relating to the partition of the former Joint Use Area of the 1882 Executive Order reservation.

Paragraph (2) amends section 7 by renaming it "Joint Ownership of Minerals" and redesignates it as section 2.

Paragraph (3) redesignates section 8 (25 U.S.C. §640d-7) as section 3 and amends the section by repealing subparagraph (f) which contained special provisions related to the payment of legal fees for the San Juan Southern Paiute Tribe prior to the time of its Federal recognition.

Paragraph (4) redesignates section 9 (25 U.S.C. §640d-8) as section 4 and retitles it "Paiute Indian Allotments".

Paragraph (5) redesignates section 10 (25 U.S.C. §640d-9) as section 5 and by amending it to strike references to Navajo life estates.

Paragraph (6) redesignates section 11 (25 U.S.C. §640d-10) as section 6 and amending it to provide for the termination of the Commissioner's authority to select lands for the Navajo Nation on September 30, 2000. This section of the Act is further amended to authorize the Commissioner to make homesites available to extended family members of those Navajos who are certified eligible for relocation benefits in order to facilitate the relocation program.

Paragraph (7) redesignates section 12 (25 U.S.C. §640d-11) as section 7. This section of the Act is amended to provide for: the termination of the Office of Navajo and Hopi Indian Relocation on September 30, 2001; the transfer of any remaining duties or functions, resources, funds, property and staff of the Office to the Secretary of the Department of the Interior in accordance with Title III of this Act; the establishment of an Office of Relocation in the Office of the Secretary which shall remain in existence until the Secretary determines that its functions have been fully discharged.

Paragraph (8) retitles section 13 (25 U.S.C. §640d-12) as "Report Concerning Relocation of Households and Members of Each Tribe."

Paragraph (9) redesignates section 14 (25 U.S.C. §640d-13) as section 8. This section of the Act is amended to delete a reference in subsection (a) to the filing of the relocation plan and the completion of the relocation program. A new subsection (d) is added to prohibit the payment of any benefits to any head of household who has not been certified eligible by September 30, 2001.

Paragraph (10) redesignates section 15 (25 U.S.C. §640d-14) as section 9. This section of the Act is amended by adding a new subsection (e) which requires the Commissioner to notify the Secretary of any eligible relocatees who have left the lands partitioned to the tribe of which they are not members, but who have not received a replacement home by September 30, 2001 and to transfer to the Secretary the funds necessary to provide such homes. The Secretary is authorized to hold such funds in trust for each head of household until such time as the head of household requests the construction of a replacement home. If the Secretary still holds the funds in trust for a head of household at the time of the death of the head of household, then the funds shall be distributed to the heirs of the head of household upon attaining 18 years of age and shall no longer be held in trust.

Paragraph (10) further amends the Act by adding a new subsection (f) which directs the Commissioner to implement the provisions of 25 C.F.R. §700.138 within 180 days after the date of enactment of these amendments. Upon the expiration of all time periods in 25 C.F.R. §700.138, the Commissioner shall provide the notices to the Secretary and the United States Attorney for the District of Arizona which are required by 25 C.F.R. §700.139. At any time prior to July 1, 1999, the Commissioner is authorized to construct a replacement home within 90 days of the receipt of a notice from the Secretary or the United States Attorney for the District of Arizona that the removal of a relocatee from the lands partitioned to the Hopi Tribe is imminent.

Finally, paragraph (10) provides that the Act is also amended by striking the existing subsection (g) and inserting in lieu thereof a new subsection (i) which authorizes the Commissioner to establish an expedited procedure for reaching final determinations on any appeals from denials of eligibility. The Commissioner must provide a final notice, by mail and/or publication, to anyone who may have a right to an eligibility determination within 30 days from the enactment of the amendments and all requests for such determinations must be filed within 180 days from the date of such notice.

A new subsection (j) is added to this section of the Act to authorize the Commissioner to contract for services and employ personnel in order to provide for eligibility determinations and appeals. Upon request, the Director of the Office of Hearings and Appeals of the Department of the Interior shall provide a qualified hearing officer to the Commissioner to assist in hearings to review eligibility determinations.

A new subsection (k) is added to this section of the Act to provide for a final and expedited appeal of any final eligibility determinations by the Office to the Circuit Court of Appeals for the Ninth Circuit. All such appeals shall be filed within 30 days of the final action by the Office and the Court shall complete its review within 60 days after receipt of the certified record from the Office. All such appeals shall be reviewed on the basis of the certified record and any denial of eligibility which is supported by substantial evidence shall be affirmed.

Paragraph (11) redesignates section 16 (25 U.S.C. §640d-15) as section 10 and retitles it "Payment of Fair Rental Value for Use of Lands".

Paragraph (12) redesignates section 17 (25 U.S.C. §640d-16) as section 11 and retitles it "Statutory Construction".

Paragraph (13) redesignates section 18 (25 U.S.C. §640d-17) as section 12 and retitles it "Actions for Accounting, Fair Value of Grazing, and Claims for Damages to Land".

Paragraph (14) redesignates section 19 (25 U.S.C. §640d-18) as section 14 and retitles it "Reduction in Livestock with Joint Use".

Paragraph (15) redesignates section 20 (25 U.S.C. §640d-19) as section 15 and retitles it "Perpetual Use of Cliff Springs for Religious Ceremonial Uses; Piping of Water for Use by Residents".

Paragraph (16) redesignates section 21 (25 U.S.C. §640d-20) as section 16 and retitles it "Use and Right of Access to Religious Shrines on Reservation of Other Tribe".

Paragraph (17) redesignates section 22 (25 U.S.C. §640d-21) as section 17 and retitles it "Exclusion of Payments from Certain Federal Determination of Income".

Paragraph (18) redesignates section 23 (25 U.S.C. §640d-22) as section 18 and retitles it "Authorization for Exchange of Reservation Lands".

Paragraph (19) redesignates section 24 (25 U.S.C. §640d–23) as section 19 and retitles it "Severability of Provisions".

Paragraph (20) redesignates section 25 (25 U.S.C. §640d–24) as section 20 and amends this section in subsection (a) by providing authorizations for appropriations of such sums as may be necessary for fiscal years 1998 through 2002. The authority for appropriations for the mediator, life estates and special discretionary funds for the Commissioner is repealed.

Paragraph (21) repeals section 26 (88 Stat. 1723).

Paragraph (22) redesignates section 27 (25 U.S.C. §640d–25) as section 21 and amends it by repealing subsections (a) and (b) and retitling it "Funding and Construction of Hopi High School and Medical Center."

Paragraph (23) redesignates section 28 (25 U.S.C. §640d–26) as section 22 and adding a new subsection (c) to require all construction activities to be undertaken in compliance with 16 U.S.C. §§469a–1 through 469c and declaring that such compliance shall also be deemed to be compliance with P.L. 89–665, as amended, and P.L. 96–95, as amended.

Paragraph (24) redesignates section 29 (25 U.S.C. §640d–27) as section 23 and retitles it "Attorney Fees, Costs and Expenses for Litigation or Court Action".

Paragraph (25) redesignates section 31 (25 U.S.C. §640d–29) as section 24 and retitles it "Lobbying".

Paragraph (26) redesignates section 32 (25 U.S.C. §640d–30) as section 25 and retitles it "Navajo Rehabilitation Trust Fund".

Paragraph (27) redesignates section 32 (25 U.S.C. §640d–31) as section 26 and retitles it "Availability of Funds for Relocation Assistance Regardless of Place of Residence".

TITLE II. PERSONNEL OF THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

This Title contains six amendments to Title 5 of the United States Code, as follows:

Section 201. Retention Preference. This section amends paragraph (b) of section 3501 to exclude employees of the Office of Navajo and Hopi Indian Relocation from reduction-in-force regulations.

Section 202. Separation Pay. This section amends section 5597 to provide a new paragraph (a)(3) and new subsections (h) and (i) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for voluntary separation incentive payments.

Section 203. Immediate Retirement. This section amends section 8336 to include employees of the Office of Navajo and Hopi Indian Relocation in paragraph (1) to make them eligible for early or optional retirement programs.

Section 204. Computation of Annuity. This section amends subsection (d) of section 8336 to modify the retirement computations for those employees of the Office of Navajo and Hopi Indian Relocation who can retire under early or optional retirement regulations.

Section 205. Immediate Retirement. This section amends section 8412 by adding a new subsection (g) to include employees of the Office of Navajo and Hopi Indian Relocation in the provisions for annuities.

Section 206. Computation of Basic Annuity. This section amends section 8415 by adding a new subsection (g) to modify the annuity computations for those employees of the Office of Navajo and Hopi Indian Relocation who are eligible for annuities.

TITLE III—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

Section 301. Definitions. This section sets out the definitions used in this title.

Section 302. Transfer of Functions. This section provides for the transfer of all of the functions of the Office of Navajo and Hopi Relocation that have not been fully discharged to the Department of the Interior.

Section 303. Transfer and Allocations of Appropriations. This section provides that the assets, liabilities, contracts, property, records and unexpended balances of appropriations, allocations and other funds related to the functions transferred under this title, shall be transferred to the Department of the Interior.

Section 304. Savings Provisions. This section provides that all orders, determinations, rulings, regulations, permits, agreements, grants, contracts, licenses, privileges and other administrative actions shall have continuing legal effect until modified, superseded, set aside or revoked in accordance with or by operation of law. It also provides that proceedings, including notices of proposed rulemaking, and lawsuits commenced before the effective date of this title shall not be affected by the transfer.

Section 305. Separability. This section provides that if a provision of this title is held invalid, the remainder of the title shall remain unaffected.

Section 306. References. This section provides that any reference to the Commissioner of the Office of Navajo and Hopi Relocation and the Office of Relocation shall be deemed to refer to the Secretary of the Interior and the Office of Relocation of the Department of Interior respectively.

Section 307. Effective Date. This section provides that this title shall take effect on September 30, 2001.

Mr. Mr. FORD:

S. 2112. A bill to revise the boundary of the Abraham Lincoln Birthplace National Historic Site in Larue County, KY, and for other purposes; to the Committee on Energy and Natural Resources.

THE ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE BOUNDARY REVISION ACT OF 1996

Mr. FORD. 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. 2112

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

SECTION 1. REVISION OF BOUNDARY OF ABRAHAM LINCOLN BIRTHPLACE NATIONAL HISTORIC SITE.

(a) IN GENERAL.—On acquisition of the land known as Knob Creek Farm pursuant to subsection (b), the boundary of the Abraham Lincoln Birthplace National Historic Site, established by the Act of July 17, 1916 (39 Stat. 385, chapter 247; 16 U.S.C. 211 et seq.), is revised to include the land.

(b) ACQUISITION OF KNOB CREEK FARM.—The Secretary of the Interior may acquire, by donation only, the approximately 228 acres of land known as Knob Creek Farm in Larue County, Kentucky.

By Mr. KERRY:

S. 2113. A bill to increase funding for child care under the temporary assistance for needy families program; to the Committee on Finance.

THE WORKING FAMILIES' CHILD CARE ASSISTANCE ACT

• Mr. KERRY. Mr. President, today I am introducing the "Working Families' Child Care Assistance Act" to help the many working families who face great struggles to find affordable, good-quality child care.

Mr. President, we no longer live in an era when one parent generally stays at home full time to take care of the children. Today, 60 percent of women with children younger than six are in the labor force. The result is that approximately 7 million children of working parents are cared for each month by someone other than a parent. And most of these children spend 30 hours or more each week in child care, according to the National Research Council.

New research also confirms that our current social reality has placed enormous strains on working families' budgets because many families must pay for child care. According to a new study of 100 child care centers entitled "Cost, Quality, and Child Outcomes in Child Care Centers," families spend an average of $4,940 per year to provide services for each enrolled child. Annual child care costs of this size represent a whopping 28 percent of $17,481, which is the yearly income of an average family in the bottom two-fifths of the income scale.

But even for families who can afford the cost of child care, in some communities child care continues to be hard to obtain at any cost. Mr. President, in 1994, 36 States reported State child care assistance waiting lists, according to the children's defense fund. Eight States had at least 10,000 children waiting for assistance. Georgia's list was the longest with 41,000, while in Texas the list had 36,000 names and a wait of about 2 years. In Massachusetts, the statewide waiting list contains the names of 4,000 working families. Additionally, a 1995 U.S. General Accounting Office [GAO] study found that shortages of child care for infants, sick children, children with special needs, and school-age children before and after school pose difficulties for many families.

I believe the child care situation may worsen because of a provision which I did not support in the recently passed welfare reform bill which cuts the title XX social services block grant by 15 percent. Many States currently use this funding to pay for child care for working families; unfortunately, this cut will result in even more families needing child care assistance.

Mr. President, it is time to provide help to working families to afford quality child care. My bill would double the funding through the child care development block grant, increasing child care funding by $1 billion per year. This would result in more than 5,000 families in Massachusetts alone receiving child care help.

Working parents face an extraordinary uphill battle in trying to make ends meet and cover the high cost of child care. Well over half the women in the work force are parents of preschool children, and they need access to affordable, quality child care they can trust. This bill provides real help to working families and hopefully will send a strong signal that their work and their efforts to provide reliable child care for their children is valued and supported.•

By Mr. AKAKA:

S. 2114. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE PET SAFETY AND PROTECTION ACT OF 1996

• Mr. AKAKA. Mr. President, today I am introducing the Pet Safety and Protection Act of 1996, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against AIDS, cancer, Alzheimer's, heart disease, and a host of other life-threatening illnesses. Orthopedic surgeons are making tremendous progress in designing new and improved joint-replacement materials for patients. Emergency medical techniques, such as CPR, have saved thousands of lives since they were developed.

What do these advancements in medicine have in common? Animal research helped make them possible. Animal research ensures that drugs and surgical techniques, which benefit millions of people every day, are safe and effective. Animal research is of great importance to our future, but there is growing evidence that, in some instances, research is being carried out using family pets that have been fraudulently obtained from the owners who love them.

The concern that has prompted me to introduce the Pet Safety and Protection Act of 1996 does not relate to whether animals should or should not be used in medical research. Rather, this bill provides a sensible solution to the growing problem of stray and stolen pets being sold to research facilities. It addresses problems caused by unethical Class B "random source" animal dealers. The Pet Safety and Protection Act of 1996 will safeguard family pets while allowing essential research to continue in an environment free from deception and abuse.

According to the USDA's Animal and Plant Health Inspection Service [APHIS], there are 4,325 licensed animal dealers in the United States. About 1,100 of these dealers are licensed by APHIS as Class B "random source" animal dealers. This means that these dealers do not breed the animals themselves, but obtain their dogs and cats from other sources.

Unfortunately, there is significant evidence to conclude that many Class B "random source" dealers are profiteering through theft or by deceptively acquiring animals. For example, in 1995, 50 class B dealers supplied 24,000 of the 89,000 dogs used for research. APHIS investigations of these dealers found that up to 50 percent engaged in fraudulent record-keeping practices. In other words, up to 11,000 of the dogs sold to medical facilities in 1995 may have been obtained through pet theft, falsified records, and other unscrupulous techniques.

The provisions of current law are impossible to enforce effectively. In response to evidence of repeated violations of Federal law by Class B "random source" dealers, I have introduced the Pet Safety and Protection Act of 1996. This legislation will ensure that dogs and cats used by research facilities are obtained from legitimate sources.

The problem of pet theft should not be left unchecked. Dr. Robert Whitney, former director of the Office of Animal Care and Use at the National Institutes of Health recently declared that, "The continued existence of these virtually unregulatable Class B dealers erodes the public confidence in our commitment to appropriate procurement, care, and use of animals in the important research to better the health of both humans and animals." it is in the interests of consumers, pet owners, and researchers alike, to see that animals used for research purposes are obtained legitimately and treated with respect.

I urge all of my colleagues to join in supporting this legislation.•

By Mr. MOYNIHAN:

S. 2116. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporatoin, and for other purposes; to the Committee on Finance.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

Mr. MOYNIHAN. Mr. President, I am pleased to introduce legislation today that I hope, at the very least, will draw attention to the interesting possibilities of how private capital might be joined with public funding of our Nation's infrastructure. The bill is designed to facilitate investment in, and the financing of, infrastructure projects—which generate good-paying jobs—through the creation of a self-sustaining entity, the National Infrastructure Development Corporation.

In 1991, I sponsored the Intermodal Surface Transportation Efficiency Act [ISTEA]. One provision called for the establishment of an Infrastructure Investment Commission. Public investments in infrastructure have been declining, and so the Commission was charged with looking at ways to encourage the investment of private capital. The Commission was chaired by Daniel V. Flanagan, Jr. Under his able direction, the Commission released a report early in 1993. I found it truly compelling, and I look forward to revisiting the Commission's recommendations as we prepare for ISTEA II. In short, we would do well to listen to Mr. Flanagan, again, as we reauthorize our vitally important transportation infrastructure policies in the 105th Congress. There will be hearings, of course, and we look forward to testimony from the Commission as to its recommendations. I would like to point out that our colleague, Senator HUTCHISON from Texas, served as a member of the Commission; and I certainly look forward to working with her as the Environment and Public Works Committee takes up this most important matter next year.

I would like to note that significant infrastructure investment activity by U.S. pension funds is occurring daily overseas, particularly in Asia and Latin America. A good part of this has been prompted by the evolution of the independent power generation spawned by the action of our Congress in creating such entities as part of the Energy Policy Act of 1992. As a result, we now have a project finance industry in existence in this country assisting those American funds in such infrastructure investment overseas. Also, current policies of the Overseas Private Investment Corporation, the Export Import Bank, and the World Bank, encourage this type of overseas investment through credit enhancements, political risk insurance, and so forth.

The problem in the United States is that we have never provided such credit enhancement disciplines in our own infrastructure network. Clearly, there is significant political risk for the entrepreneur, the architect, the engineer, and even the community group that seeks to develop improvements and novel and innovative ways of paying for such services. The Commission's report suggests a "growing of the pie" approach to leverage some of our public funds by encouraging such private investment, and suggests that leverage ratios of approximately 10 to 18 times the public funds involved are attainable.

Recommendations of the Commission and Mr. Flanagan, who has testified several times before Congress on this subject, are incorporated in this legislation. For example, it suggests various insurance initiatives, particularly in the area of development risk, as well as other innovative procedures, including the reinsurance of long term revenue streams that would allow new economic activity to ensure either in the

construction of new or rehabilitation of existing facilities.

I commend my colleagues in the House of Representatives, particularly the Democratic leadership there, for introducing this measure in that body earlier this year. To me this is a bipartisan effort and we welcome the support of our Republican colleagues. This legislation, the National Infrastructure Development Act of 1996, is by no means the final word on this subject. But I do recommend it to all of my colleagues for their examination and hope it proves sufficient to stimulate their interest in this ingenious approach to such an exciting matter.

SENATE RESOLUTION 296—RELATIVE TO DISABLED SENATE EMPLOYEES

Mr. FORD submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 296

Resolved, That (a) a Senate employee with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has the privilege of the Senate floor under rule XXII of the Standing Rules of the Senate may bring such supporting services (including dog guides and interpreters) on the Senate floor as the employing office determines are necessary to assist the disabled employee in discharging the official duties of his or her employment position.

(b) The employing office of a disabled employee shall administer the provisions of this resolution.

SENATE RESOLUTION 297—REFERRING S. 558

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 297

Resolved, That the bill S. 558 entitled "A Bill for the relief of Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes," is referred, with all accompanying papers, to the chief judge of the United States Court of Federal Claims for a report in accordance with sections 1492 and 2509 of title 28, United States Code.

SENATE RESOLUTION 298—DESIGNATING ROOM S-131 IN THE CAPITOL AS THE MARK O. HATFIELD ROOM

Mr. BYRD (for himself, Mr. LOTT, Mr. DASCHLE, Mr. ABRAHAM, Mr. AKAKA, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. CAMPBELL, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mrs. FRAHM, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. NUNN, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 298

Whereas Senator Mark O. Hatfield, the son of Charles Hatfield (a railroad construction blacksmith) and Dovie Odom Hatfield (a school teacher), upon the completion of the 104th Congress, will have served in the United States Senate with great distinction for 30 years;

Whereas Senator Mark O. Hatfield is the longest serving United States Senator from Oregon;

Whereas Senator Mark O. Hatfield serves on the Committee on Energy and Natural Resources, the Committee on Rules and Administration, the Joint Committee on the Library, and the Joint Committee on Printing;

Whereas Senator Mark O. Hatfield serves as Chairman of the Committee on Appropriations and has provided for the development of major public works projects throughout the State of Oregon, the Pacific Northwest, and the rest of the Nation;

Whereas Senator Mark O. Hatfield has constantly worked for what he calls "the desperate human needs in our midst" by striving to improve health, education, and social service programs;

Whereas Senator Mark O. Hatfield has earned bipartisan respect from his Senate colleagues for his unique ability to work across party lines to build coalitions which secure the enactment of legislation; and

Whereas it is appropriate that a room in the United States Capitol Building be named in honor of Senator Mark O. Hatfield as a reminder to present and future generations of his outstanding service as a United States Senator: Now, therefore, be it

Resolved, That room S. 131 in the United States Capitol Building is hereby designated as, and shall hereafter be known as, the "Mark O. Hatfield Room" in recognition of the selfless and dedicated service provided by Senator Mark O. Hatfield to the Senate, our Nation, and its people.

SENATE RESOLUTION 299—RELATING TO THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. LOTT (for himself, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 299

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session), is amended by striking "until December 31, 1996" and inserting "until December 31, 1998".

SENATE RESOLUTION 300—TO DESIGNATE NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK

Mr. WELLSTONE (for himself, Mr. INOUYE, Mrs. MURRAY, Mr. DODD, Mrs. FRAHM, Mr. REID, Mr. GLENN, Mr. EXON, Mrs. BOXER and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 300

Whereas Shaken Baby Syndrome describes the consequences that occur when a young child is violently shaken;

Whereas Shaken Baby Syndrome is so lethal that 20 to 25 percent of its victims die, and most survivors suffer brain damage;

Whereas Shaken Baby Syndrome accounts for 10 to 12 percent of all child abuse and neglect cases in the United States;

Whereas 25 to 50 percent of teenagers and adults do not know that shaking a baby is dangerous;

Whereas education is the key to preventing this tragedy; and

Whereas the United States has a continuing commitment to the health and safety of this Nation's children:

Now, therefore, be it

Resolved, That the Senate designates the week of November 3, 1996, as "National Shaken Baby Syndrome Awareness Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

• Mr. WELLSTONE. Mr. President, I submit a resolution designating the week of November 3, 1996 as National Shaken Baby Syndrome Awareness Week. America's children are its most priceless and irreplaceable resource, and I am proud to lend them my voice in the U.S. Senate. Today, I speak for America's children as I urge my colleagues to consider this important resolution.

Shaking a baby causes serious brain injury. A baby's head accounts for one-fourth of its weight and is supported by weak and underdeveloped neck muscles. When a baby is shaken, it causes the brain to rock back and forth, hitting the skull with great force. This can cause the brain to bleed, bruise, or swell, resulting in the possibility of blindness, deafness, paralysis, epilepsy, cerebral palsy, and developmental disability. In many cases, this can also lead to death.

Brandon and Teddy are two very special little boys from my home State of Minnesota. They are survivors of a common and deadly form of child abuse that is often committed out of simple

ignorance. Brandon and Teddy were violently shaken by their birth mothers out of frustration. This type of abuse and its resulting injuries are known as shaken baby syndrome or SBS.

Brandon and Teddy are survivors, but they will bear the scars of their abuse for the rest of their lives. Both boys have been adopted and are receiving expert care from a committed and loving family. Brandon is 6 years old and is stricken with a permanent brain injury. He has a seizure disorder, shunts in his head, and a permanent blind spot as a result of being shaken. Brandon receives special education services and learns very slowly. Teddy is 4 years old and does not speak. His brain injury impacts his problem-solving capability and his education is a long and tedious process. Teddy will probably never be able to live independent of a care-giver.

Brandon and Teddy's injuries were entirely preventable. A study by the Ohio Research Institute on Child Abuse Prevention indicates that 25 to 50 percent of adults do not know that shaking a baby is dangerous. Education of adult and teenage child care providers is the key to preventing the tragic consequences of SBS. According to studies by the U.S. Advisory Board on Child Abuse and Neglect, SBS is so lethal that over 20 percent of its victims die from the resulting injuries. These injuries may account for over 10 percent of all physical child abuse deaths in the United States.

On November 10, 1996, the first National Conference on Shaken Baby Syndrome will convene in Salt Lake City, UT. At this conference a coalition of families, doctors, law enforcement people, and child protection officials will gather to discuss the issues surrounding SBS. These committed individuals will work to educate medical professionals about the symptoms of SBS, push for more severe penalties for perpetrators, and teach all segments of the public that it's never OK to shake a baby.

Mr. President this resolution emphasizes the importance of this historic conference. It is my hope that the Senate will continue its commitment to the health and safety of America's children by supporting this resolution.

I ask unanimous consent that the list of supporting agencies be listed in the RECORD.

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

ORGANIZATIONS BY STATE SUPPORTING SHAKEN BABY SYNDROME RESOLUTION

AL—Alabama Children's Trust Fund
AK—Rural Community Action Program
AR—Arkansas Child Abuse Prevention
AZ—National Council for the Prevention of Child Abuse: AZ Chpt.
CA—Office of Child Abuse Prevention
CO—Pueblo City-County Health Dept.
CT—Wheeler Clinic, Plainville, CT
DE—Delawareans United to Prevent Child Abuse
FL—Florida Council for the Prevention of Child Abuse
GA—Georgia Council on Child Abuse, Inc.
HI—Prevent Child Abuse Hawaii
ID—Idaho Children Services Bureau
IN—Indiana Chapter NCPCA
IA—Iowa Chapter NCPCA
KS—Child Abuse Prevention Coalition
KY—Kentucky Council on Child Abuse, Inc.
LA—Louisina Council on Child Abuse
ME—Maine Dept. of Maternal and Child Health
MD—Mt. Washington Pediatric Hospital
MA—Massachusetts Committee for Children and Youth
MI—Michigan Children's Trust Fund
MN—Midwest Children's Resource Center
MS—Mississippi Children's Trust Fund
MO—MO Dept. of Health—Bureau of Prenatal and Child Health
MT—Cascade Cty. Child Abuse Prevention Council, Great Falls, MT
NE—Nebraska Department of Social Services
NV—Nevada Chapter NCPCA
NH—NH Bureau of Maternal and Child Health
NJ—New Jersey Chapter NCPCA
NM—NM Dept. of Children, Youth and Families
NY—William B. Hoyt Memorial Children and Families Trust Fund
NC—Prevent Child Abuse North Carolina
ND—Children's Hospital MeritCare
OH—Council on Child Abuse of Southern Ohio
OK—Children's Hospital of Oklahoma
OR—Children's Trust Fund
RI—Rhode Island Committee to Prevent Child Abuse
SC—SC Office of Public Health—Social Work
SD—SD Office of Child Protection Services
TN—Tennessee Dept. of Human Services
TX—Children's Trust Fund of Texas
UT—Child Abuse Prevention of Ogden
VT—Vermont Chapter NCPCA
VA—SCAN of Northern Virginia, Inc.
WA—WA Council for Prevention of Child Abuse and Neglect
WV—WV Children's Reportable Disease Coordinator
WI—WI Child Protection Center/Outpatient Health Center
WY—Wyoming Dept. of Family Services
DC—Children's Nat'l Medical Center—Div. of Child Protection.•

AMENDMENTS SUBMITTED

THE WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

HOLLINGS AMENDMENT NO. 5398

Mr. FRIST (for Mr. HOLLINGS) proposed an amendment to the bill (H.R. 3546) to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina; as follows:

Before section 1, insert the following:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

At the end of the bill, add the following:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the "Long Pond Unit") to exclude from the Unit the structures known as "Lands End", "Beachwalk", and "Courtyard Villas", including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development, between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled "Coastal Barrier Resources System" dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

THE WYOMING FISH AND WILDLIFE FACILITY ACT OF 1996

THOMAS (AND OTHERS) AMENDMENT NO. 5399

Mr. FRIST (for Mr. THOMAS, for himself, Mr. SIMPSON, Mr. DASCHLE, and Mr. PRESSLER) proposed an amendment to the bill (S. 1802) to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming, and for other purposes; as follows:

Beginning on page 2, strike line 3 and all that follows through page 3, line 11, and insert the following:

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey, in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1):

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(a) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

THE TENSAS RIVER NATIONAL WILDLIFE REFUGE ACT OF 1996

JOHNSTON AMENDMENT NO. 5400

Mr. FRIST (for Mr. JOHNSTON) proposed an amendment to the bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; as follows:

At the end of the bill, add the following:

SEC. 3. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) RFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99-645; 100 Stat. 3590), is amended by inserting after the first sentence the following: "In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge Expansion", dated August, 1996, on file with the United States Fish and Wildlife Service."

THE ANIMAL DRUG AVAILABILITY ACT OF 1996

KASSEBAUM AMENDMENT NO. 5401

Mr. FRIST (for Mrs. KASSEBAUM) proposed an amendment to the bill (S. 773) to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(A) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant:

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b (c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)), as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination

makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P-0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) Upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug.".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animals drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgement from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgement to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i).".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i),

the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approval application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether this is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs."

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Wednesday, October 2, 1996, at 9 a.m. in SR–328A to discuss renewable fuels and the future security of U.S. energy supplies.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Wednesday, September 25, 1996, in open session, to receive testimony on the impact of the Bosnian elections and the deployment of United States Military Forces to Bosnia and the Middle East.

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

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 24, 1996, at 3:30 p.m. in executive session, to consider certain pending military nominations.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, September 24, 1996 session of the Senate for the purpose of conducing a hearing on S. 1860, the Auto Choice Reform Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 24, 1996, at 10 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, September 24, at 10 a.m. for a hearing on the S. 1724, Freedom from Government Competition Act of 1996.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, September 24, 1996, at 9:30 a.m. in room 106 of the Dirksen Senate Office Building to conduct a hearing on tribal sovereign immunity.

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

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, September 24, at 9 a.m. to hold a hearing to discuss Social Security reform.

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

NOTICE OF INTENTION TO SUSPEND THE STANDING RULES OF THE SENATE

Mr. LOTT. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby give written notice to suspend rule 28 of the Standing Rules of the Senate, titles 3 and 6 of the Budget Act and all provisions of the budget resolutions for consideration of the conference report to accompany H.R. 3610, the DOD appropriations bill.

ADDITIONAL STATEMENTS

UNITED STATES' RELATIONSHIP WITH NORTH KOREA

• Mr. SIMON. Mr. President, one of the Members of Congress who has contributed significantly more than most of us is Congressman TONY HALL.

His emphasis on helping people in need has sharpened the conscience of many policymakers, though it has not sharpened it enough.

He has provided leadership in areas that most Members of Congress ignore, such as Eritrea.

Recently he went to North Korea, and he testified before the Subcommittee on East Asian and Pacific Affairs of the Senate Foreign Relations Committee.

It is a remarkable insight into the leadership that is needed in regard to the tense situation in Korea.

Nowhere do we have as many troops facing each other as we do between North Korea and South Korea and that problem is compounded by the fact that there is no communication between the two countries.

Mr President, I ask that Congressman HALL's remarks be printed in the RECORD.

The remarks follow:

TESTIMONY OF U.S. REPRESENTATIVE TONY P. HALL

Good morning. I want to thank you for inviting me to testify today, Mr. Chairman, and to thank both you and Senator Robb for the focus you are bringing to the United States' relationship with North Korea.

I am convinced that our increasing contacts with North Korea can only benefit America's interests—and make the job of the 37,000 American troops stationed along the border with South Korea easier. And I am hopeful that our contacts also will help the people of North Korea who have suffered in their decades-long isolation, and are hurting badly today.

Our humanitarian work, our progress in dismantling North Korea's nuclear reactor and on missile technology controls, and the unprecedented joint investigation by U.S. and North Korean soldiers into the fate of missing servicemen—all of these mark a dramatic turn-around in a relationship that is in its fifth decade of military tension.

I believe our nation owes special thanks for these changes to former President Jimmy Carter, whose personal diplomacy laid the groundwork for peace two years ago. Senator Paul Simon, who with Senator Frank Murkowski travelled to North Korea at a crucial moment, and who has championed ideas that hold great promise for the future of both countries, also deserves recognition for his work. We ought to build on their success in seizing this historic opportunity.

NORTH KOREA'S FOOD SHORTAGE

The hunger and malnutrition that I saw in North Korea is different than famines I've seen in my visits to other countries. This is

the only country I can remember where grown children are shorter than their parents. The stunting is severe, especially when you compare North Koreans to their siblings and cousins in South Korea. And North Korea is the only place I've seen where parents and grandparents are giving their rations to their children in a desperate effort to protect them.

Today in North Korea, people are somehow surviving on rations of little more than 600 calories a day—just seven ounces of grain. That's not two bowls of rice, too much to die on, but not enough to live on and function. They are scrambling to supplement that starvation diet, but clearly having little success.

Nutritional standards say sedentary workers need about 2,000 calories a day to maintain their body weight—but people in North Korea cannot be sedentary. In two weeks, the harvest will be brought in with the aid of few animals and fewer machines. And if there is to be any hope for next year's harvest, the back-breaking work of rebuilding broken irrigation systems, roads, and other infrastructure must be completed.

Adults have lost an average of 30 pounds since January, according to Western aid workers I talked to there. According to our Ambassador to South Korea, James Laney, a North Korean soldier who defected to South Korea in mid-August weighed just 92 pounds. And there are many more measures of the extent of the suffering in North Korea in both the intelligence and in the unclassified reports of U.N. agencies, the International Red Cross, and charities that have visited North Korea.

For me, two things stand out in all of these measurements:

First, the bodies of most of the North Koreans that I saw are exhausted. Simply surviving this winter will be a tremendous physical challenge that many of them will not be able to meet.

Second, North Korea's land appears equally worn out. Food grows on any patch of land available—atop the rice paddy walls, along the shoulders of roads, in rivers' floodplains, on the slopes of steep hills. Land is not permitted to lie fallow, there is no investment in fertilizer and pesticides, deforestation leads to soil erosion that ruins once-productive land—and sorry yields are the result of it all.

North Korea's granaries were last full in 1992—but however self-inflicted the long-term problems may be, the country was overwhelmed by the worst natural disaster in its history last year. And this year, another severe flood struck the breadbasket provinces that produce 60 percent of North Korea's grain.

WHAT IS MISSING

What struck me most was not what I saw—but what was missing. There is an eerie silence in the capital, and in the villages that we visited in more than 20 hours on the road. You don't hear roosters crowing, and the air seems empty of birds—even of gulls in the seaside city of Haeju. You don't see cats, or rats, or cows or goats—or much sign of other animal life. Occasionally, in people's homes I saw dogs, but not a single puppy. According to some aid workers, the sight of a pregnant woman is increasingly rare, and a new maternity hospital never has more than 25 of its 250 beds filled. Certainly we saw no fat people—or anybody that bore much resemblance to their healthier siblings and cousins in South Korea.

Soldiers—and we saw a lot of individual soldiers throughout the capital and countryside—have the same hollow-cheeked look as civilians, and their uniforms hang very loosely on them. That may be the best evidence that most of North Korea's military isn't getting much more to eat than the rest of the people.

All of this added up to a nagging sense that we simply cannot know what is happening in North Korea. Aid workers speak in hushed tones when talk turns to what is happening in the mountains that make up 80 percent of North Korea. They can barely help the 1.5 million children and flood victims covered by the U.N.'s appeal for humanitarian aid; the remaining 20 million people are on their own.

Two American demographers, Nicholas Eberstadt of the American Enterprise Institute and Judith Banister, of the U.S. Census Bureau, have done statistical analysis of North Korea's population—and with your permission, Mr. Chairman, I would like to submit a letter for the record that Mr. Eberstadt is preparing. The gist of their finding is that half a million people are "missing." That is either (1) a statistical blip; or (2) a sign of severe changes in the birth and death rates. We cannot know which is true, but I believe the possibility of something that would affect 500,000 people deserves our concern.

NORTH KOREA'S OWN EFFORTS

I also want to comment briefly on the efforts that North Korea is making to ease suffering in its country. Its rations system now feeds the majority of the population, and by all accounts, it is meticulously fair. Ration cards measure out to three decimal points. A U.N. report issued Sept. 9 notes that sometimes there is not enough food to distribute the second of two monthly rations, but people do seem to share equally in the food available.

The system also appears to be exceptionally efficient. The first U.S. flag ship to visit North Korea since the war arrived on Wednesday, Aug. 21—and the rice and cornmeal it carried already was being distributed when I visited two rural provinces on Thursday, Aug. 22.

Other North Korean efforts are more troubling, however. According to Monday's report, some 30 to 90 percent of the nation's livestock have been turned over to individuals for tending or slaughtering; and local provinces have gotten a green-light to barter their timber and other resources for food (primarily with China)—increasing deforestation and reducing the fuel available this winter.

THE JULY 1996 FLOOD

So far, North Korea's suffering is largely caused by the 1995 disaster—a massive, 100-year flood that bore striking similarities to our own Midwest flood of just three years ago. People already bombarded with admonitions to "work harder, eat less" have high hopes that the 1996 harvest will be good.

It won't be.

United Nations experts who travelled to the region I saw just after I left reported this week that much of the country's breadbasket region—which produces 60 percent of its grain, and which I visited last month—was under water for five days in July. Rainfall was 3–5 times normal, overwhelming irrigation canals and bursting dams. To put the torrential rains into some perspective, it was twice what North Carolina and Virginia endured in Hurricane Fran's aftermath—and it lasted five times longer. And the rains came at a crucial time in crop development—stunting the growth of corn, and robbing rice stalks of their nutritional kernels.

Along just one 500-mile irrigation network, there were 369 breaks. A report issued by the International Red Cross, UNICEF, and several U.N. agencies puts the likely crop losses in the half-million acres irrigated by this system at $300 million. And broken sea dykes added to this misery, washing salt water over land and poisoning it for this year and probably several more.

INTERNATIONAL AID

The international community is lending a hand—but only barely. China, Japan and the U.S. each have donated some $6 million to the current appeal. South Korea has given $3 million, and promises far more if North Korea agrees to peace talks that President Clinton and President Kim proposed in April.

With the notable exception of Sweden, though, the response of most European nations has been nothing less than a "let 'em starve" pittance that shames the reputation of European people. I spoke with the director of U.S. AID, Brian Atwood, about this—and he plans to raise the matter with his European Community counterpart in October.

In all, just over half of the United Nations' current emergency appeal has been filled. It last until March 1997, but the food-for-work projects to rebuild irrigation systems and other infrastructure must begin immediately after the harvest in order to stave off another disaster in 1997.

NGOs are doing their best to respond, but they are hampered by restrictions on South Korean individuals—many who have family ties to the North—and by North Korea's petulant insistence that NGOs bring food, and not just people. Without eyewitness accounts, without reporting by independent journalists, NGOs simply cannot raise the money they need to fund their operations. U.S. organizations like World Vision and Mercy Corps are doing their best to help, and the U.S. government should lend its weight to their efforts.

In every disaster, NGOs are the first to respond—the people who work with the most vulnerable groups, and who stick around long enough to do the long-term work needed. Governments—including the U.S. Government—need to do more. But it will be the work of private citizens, and the organizations they support, that will make or break North Korea's recovery. This is my strong conviction, and I raised it with both North and South Korean leaders.

CONCLUSION

Despite the seemingly endless stream of bad news about North Korea, I remain hopeful. My talks with North Korea's leaders were productive, and I am convinced that good-faith efforts by the U.S. and other nations will produce more good-faith efforts by North Korea. It is not a quick process, but it is one whose pace is increasing, and it is our best hope for lending momentum to the progressive factions inside North Korea.

I am hopeful for one other reason: a UNICEF project that represents an historic joint effort by North and South Korea. Like all UNICEF projects, the Oral Rehydration Salts plant will be a Godsend to children. The packets of gluocse and salt that this plant will manufacture are used around the world as a circuit-breaker in the spiral of disease and death. If you care about suffering children, and had just three wishes, Oral Rehydration Salts would be one of those wishes.

North Korea was self-sufficient in producing this life-saving product—until the flood swept away its building and equipment in 1995. It has since donated a building for the

plant to UNICEF and brought it up to World Health Organization standards—but UNICEF still lacked the money needed to equip the plant.

Until this week.

When I met South Korea's Foreign Minister, Gong Ro Myung en route home, I raised this urgent need with him. At the time, my hopes that South Korea would help were pretty low. But despite the loss of seats in Parliament that ensued after South Korea's donation of humanitarian aid ended in insults by North Korea; and despite public outrage recently reinvigorated by violent clashes between students and police, Minister Gong carried my request to President Kim Young Sam. And despite President Kim's difficult position as the country's first democratically elected leader—he pledged the money needed to finish this project.

His is an example that should inspire political leaders here, and in other capitals. I hope it will mark a determination by charities and private individuals to overcome the challenges of helping people in North Koreaa as well.

MISSING SERVICEMEN

Finally, I cannot close without expressing my serious concern about the persistent trickle of rumors that missing American servicemen have been sighted in North Korea. I personally raised questions about a pilot shot down during the Korean War, and conveyed the resolve of Americans to help the families of missing servicemen learn the answers to their question.

I know that this Committee's Chairman, along with Senators John Kerry, Nancy Kassebaum, Hank Brown, and Chuck Robb have devoted considerable attention to these questions, as has Senator John McCain. Several of my House colleagues also have worked hard on these issues—especially Congressmen Bill Richardson, Pete Peterson and Lane Evans. I am convinced that this persistent attention, and the ability of Americans in military service today to work on the ground in North Korea, offer the best hope possible.

Four decades of isolation have not produced answers about servicemen missing since the Korean War. I believe it is time to try a new strategy; and I hope that North Korea's new openness is the silver lining in the black cloud of the terrible suffering the North Korean people are enduring.

Again, thank you for holding this hearing, and for inviting me to testify.•

TRIBUTE TO AL SMITH

• Mr. MCCONNELL. Mr. President, I rise today to recognize an icon of Kentucky journalism. For over 20 years, Al Smith has been part of what he calls "front-porch, cracker-barrel kind of discussion" on Kentucky radio. But part of that career, and part of a Kentucky tradition, has ended with his announcement of retirement.

Albert P. Smith, Jr., was born in Sarasota, FL, but has lived in Kentucky since 1958. When Al was 15, he entered the American Legion's high school oratorical contest. Living with his parents and grandparents in Hendersonville, TN, he received coaching for the contest from his grandmother and won the top national prize, a $4,000 college scholarship. He then traveled to New England, the Midwest and the South giving the speech in cities throughout the region. It was on this trip that Al sharpened his speaking skills.

In the mid 1960's, Al bought a 10 percent interest in the Russellville News-Democrat and Leader. That interest eventually grew to his ownership of six weekly newspapers. In 1974, while Al was editor of the News-Democrat, he became a household name as host of the radio program, "Comment on Kentucky." Once a week, he would drive 180 miles to host the show. The man who hired Al to do that job, O. Leonard Press, told the Lexington Herald-Leader, "I can't imagine the Kentucky landscape without Al."

Al is still host and producer of "Comment on Kentucky," Kentucky Educational Television's longest-running show. But last month, Al retired from his job as host of "PrimeLine with Al Smith" which is broadcast statewide via radio. He never planned to retire from the show; but recent health problems have necessitated a change in his busy lifestyle. His regular listeners will miss him greatly.

But perhaps Al's biggest fan is his wife of 29 years, Martha Helen. In an interview with the Lexington Herald-Leader, Martha Helen said of Al, "I still believe Al is the most interesting person I ever met."

Mr. President, I would like to pay tribute to Al Smith for his dedication to Kentucky journalism and I wish him great happiness in his retirement.•

RECENT EVENTS IN INDONESIA

• Mr. LEAHY. Mr. President, like many Senators I have been concerned about human rights in Indonesia and East Timor for many years. I was therefore pleased when the Clinton administration indicated on July 25 that it had added armored personnel carriers to the list of military equipment it will not sell to Indonesia until there is significant improvement in respect for human rights. The administration's policy already prohibited the sale of small arms and crowd control equipment.

Two days after the United States reaffirmed and expanded its policy, an Indonesian paramilitary group stormed and destroyed the headquarters of the Indonesian Democratic Party to eject supporters of the leading opposition leader, Megawati Sukarnoputri. Party members had occupied the building to protest the forced replacement of Ms. Megawati as party chair in June. The breakup of the protest sparked days of rioting in which at least 5 people were killed, 149 were injured, and dozens disappeared.

In the months after the riot, the Suharto government has cracked down on opposition groups, arresting more than 200 members of labor, human rights, and political organizations. Some individuals have reportedly been tortured in detention.

Under pressure from Congress, the administration agreed to delay the sale of F-16 fighter jets to Indonesia in response to the crackdown. In a letter I wrote urging the administration not to proceed with this sale, I noted that providing military equipment to a government that engages in a pattern of human rights violations is contrary to section 502(B) of the Foreign Assistance Act of 1961, and that the Indonesian Government clearly fits this description. I urged the administration not to proceed with the sale until the Indonesian Government "provides a full accounting of the individuals who have been detained and the charges against them, assurances that they are not being subjected to mistreatment and that they have access to lawyers and their families, and that people detained for their political views have been released."

I was therefore disturbed to learn weeks later that administration officials, having delayed the sale of F-16's on account of the human rights situation, were saying publicly that the sale would proceed "as early as January." This undercut an opportunity to send a strong signal to a regime that has quashed political dissent consistently and whose actions since July reveal a disregard for the principals of democracy that the United States seeks to promote around the world. The administration should make clear, both privately and publicly, that this sale will not proceed until the Indonesian Government complies with international human rights standards.

Indeed, I urge the administration to condemn all human rights violations in Indonesia. Abuses continue to occur throughout the country and in East Timor. On November 12, East Timorese will honor the victims of the 1991 massacre of more than 200 people by Indonesian troops at Santa Cruz cemetery in Dili, East Timor. A long-standing pattern of violations by the Indonesian military persists on that island, and the anniversary of the massacre at Santa Cruz presents an opportunity for the United States to urge the Indonesian Government to withdraw its troops from East Timor.

To that end, I urge the administration to actively support the efforts of Bishop Carlos Ximenes Belo to promote dialog and bring peace to East Timor, and to support the United Nations talks on East Timor's future.

Mr. President, the senior Senator from Rhode Island, Senator PELL, who has been a long-standing champion of human rights in East Timor, visited that island in May and issued a report of his trip. In that report, he describes a meeting with clergy in East Timor, who told him about some of the abuses they had witnessed. I ask that these excerpts from his report be printed in the RECORD.

The excerpts follow:

EXCERPTS OF TRIP REPORT OF SENATOR CLAIBORNE PELL ON HIS VISIT TO INDONESIA AND EAST TIMOR IN MAY–JUNE 1996

I had hoped to meet with the Bishop of East Timor, Msgr. Carlos Filipe Ximenes Belo. Bishop Belo is widely admired for his forthright objections to Indonesian human rights abuses and is a vital leader of his people. Regrettably, he was away from East Timor during my visit, though we were able to talk by phone.

I was able to meet with eleven priests from a variety of East Timorese parishes in what was by far the most fruitful and dramatic meeting of my trip . . . these priests gradually and fearlessly opened up to me and told me what they had seen and heard in their parishes over the last 20 years.

They spoke of military harassment of the Church that varies from obstructing their ability to meet with their parishioners to trying to create mistrust among the people of the Church . . .

None of the priests had been present at the 1991 massacre but one told us, with great emotion, of his experiences, that day and in the months afterwards. His home is near the Santa Cruz cemetery where the massacre occurred. He had heard the shots that morning, but thought at first they were the rumblings of a storm. When he went out later, he heard from people what had happened and he went to the cemetery and tried to give last rites to those who were dying or were dead. The military would not let him approach and tried to make him leave. He stayed anyway and soon saw three large military trucks approach and be loaded with corpses. Then he saw other trucks come that were filled with water and he watched them spray the blood off the ground where the killings had taken place.

The wounded were all taken to military hospitals, he said. He then proceeded, without prompting, to confirm the stories I had read and been told earlier, that no one was allowed to visit these wounded in the hospitals, not even the priests. Again he was unable to give last rites to the dying. He estimated that in the month following the massacre as many people died in the hospitals, either from poor treatment or from torture, as had been killed in the cemetery. He told of hearing eyewitness accounts of mass graves holding as many as 100 corpses in one pit. He said the month following the massacre came to be known as "The Second Massacre." . . . Emotions around the room continued to rise, both for those telling the stories and those of us listening to them. I was struck by the knowledge that 5 years previously this group would have risked the sudden intrusion of armed officials, as the priests systematically contradicted everything the Indonesian government officials in Jakarta and Dili had said . . .

Mr. President, we owe Senator PELL our gratitude for his defense of human rights in East Timor. I want to again urge the administration to use its influence with the Suharto government to permit the supporters of democracy to associate and speak freely, and to stop the violations of human rights.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. 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 September 20, 1996. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1997 concurrent resolution on the budget, House Concurrent Resolution 178, show that current level spending is below the budget resolution by $425.7 billion in budget authority and by $248.9 billion in outlays. Current level is $17.8 billion above the revenue floor in 1997 and $99.4 billion above the revenue floor over the 5 years 1997–2001. The current estimate of the deficit for purposes of calculating the maximum deficit amount is −$39.2 billion, $266.5 billion below the maximum deficit amount for 1997 of $227.3 billion.

Since my last report, dated September 4, 1996, Congress has cleared and the President has signed the following appropriation bills: Military construction (Public Law 104–196), District of Columbia (Public Law 104–194), and legislative branch (Public Law 104–197). In addition, the Congress has cleared and the President has signed the National Defense Authorization Act for fiscal year 1997 (Public Law 104–201). The Congress has cleared for the President's signature the following appropriation bills: Energy and water (H.R. 3816) and transportation (H.R. 3675). These action changed the current level of budget authority and outlays.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 1996.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1997 shows the effects of Congressional action on the 1997 budget and is current through September 20, 1996. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1997 Concurrent Resolution on the Budget (H.Con.Res. 178). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated September 3, 1996, the Congress has cleared and the President has signed the following appropriation bills: Military Construction (P.L. 104–196), District of Columbia (P.L. 104–194), and Legislative Branch (P.L. 104–197). In addition, the Congress has cleared for the President's signature the National Defense Authorization Act for FY 1997 (H.R. 3230) and the following appropriation bills: Energy and Water (H.R. 3816) and Transportation (H.R. 3675). These actions changed the current level of budget authority and outlays.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1997, 104TH CONGRESS, 2D SESSION, AS OF CLOSE OF BUSINESS SEPT. 20, 1996

[In billions of dollars]

	Budget resolution H. Con. Res. 178	Current level	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,314.9	889.3	−425.7
Outlays	1,311.3	1,062.4	−248.9
Revenues:			
1997	1,083.7	1,101.6	17.8
1997–2001	5,913.3	6,012.7	99.4
Deficit	227.3	−39.2	−266.5
Debt Subject to Limit	5,432.7	5,041.5	−391.2
OFF-BUDGET			
Social Security Outlays:			
1997	310.4	310.4	0.0
1997–2001	2,061.3	2,061.3	0.0
Social Security Revenues:			
1997	385.0	384.7	−0.3
1997–2001	2,121.0	2,120.6	−0.4

Note: Current level numbers are 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 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.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION; SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPT. 20, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,100,355
Permanents and other spending legislation	843,212	804,226	
Appropriation legislation		238,523	
Offsetting receipts	−199,772	−199,772	
Total previously enacted	643,440	842,997	1,100,355
ENACTED THIS SESSION			
Appropriations bills:			
Agriculture (P.L. 104–180)	52,345	44,922	
District of Columbia (P.L. 104–194)	719	719	
Legislative Branch (P.L. 104–197)	2,166	1,917	
Military Construction (P.L. 104–196)	9,982	3,140	
Authorization bills:			
Taxpayer Bill of Rights 2 (P.L. 104–168)			−15
Federal Oil & Gas Royalty Simplification and Fairness Act of 1996 (P.L. 104–185)	−2	−2	
Small Business Job Protection Act of 1996 (P.L. 104–188)	−76	−76	579
An Act To Authorize Voluntary Separation Incentives at A.I.D. (P.L. 104–191)	−1	−1	
Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193)	−2,341	−2,934	60
Total enacted this session	63,097	48,000	1,214
PASSED PENDING SIGNATURE			
National Defense Authorization Act for FY 1997 (H.R. 3230)	−103	−103	
Transportation Appropriations (H.R. 3675)	12,599	12,270	
Energy and Water Development Appropriations (H.R. 3816)	19,973	13,090	
Total passed pending signature	32,469	25,257	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	150,245	146,161	
Total current level[1]	889,251	1,062,395	1,101,569
Total budget resolution	1,314,935	1,311,321	1,083,728
Amount remaining:			
Under budget resolution	425,684	248,926	

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 2D SESSION; SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS SEPT. 20, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Over budget resolution			17,841

[1] In accordance with the Budget Enforcement Act, the total does not include $68 million in outlays for funding of emergencies that have been designated as such by the President and Congress.•

NORTH AND SOUTH KOREA

• Mr. SIMON. Mr. President, I hope that in the process of being absorbed in the crises around the world, we do not forget the North Korean situation.

It is the one place on the face of the Earth where more troops are facing each other than any other, and it is a place where there is virtually no communication between the two Governments, North Korea and South Korea.

Let me add that I appreciate the responsible role that my colleague, Senator FRANK MURKOWSKI, took on the recent amendment offered by Senator LIEBERMAN.

It is easy to do things that are popular, and FRANK MURKOWSKI won no votes in Alaska with his stand. But he did the responsible and right thing for the people of Alaska and this Nation and of the world, and I applaud him for it. It is no accident that he has been to North Korea and has greater understanding of that situation than many Members of the Senate.

Not too long ago, Ambassador James Laney, the U.S. Ambassador to South Korea, made a speech in which he said that the leaders of North Korea "are driven not by arrogance, but by insecurity." I tend to believe that is accurate. And we have to fashion a face-saving way of maneuvering them to become more responsible members of the world community.

Ambassador Laney also said in commenting on the situation: "For our part we do not need to act strong because we are strong."

I believe in the soundness in what he has said.

I urge members of the State Department and of the administration not to put the North Korea matter on the back burner, but to continue to focus on it, and try to bring about greater communication. If the four-power talks that have been suggested do not become reality, then at the very least, we ought to be inviting parliamentarians from both North Korea and South Korea to meet informally in the United States with each other and with others in our country.•

THE TERUYAS

• Mr. INOUYE. Mr. President, I wish to share with my colleagues in the Senate, a very special story about an immigrant family. This article was written by Mr. Don Chapman, and appeared in the Wednesday, September 4, 1996, issue of the Midweek.

This story is of three young men, whose parents traveled 4,800 miles to begin a new life in the Hawaiian Islands. The name of the sons were, Albert, Herman and Wallace. The Teruya brothers were extraordinary young men. Like most immigrants, they worked long hours with low wages, but they had great faith in our country. With their meager earnings, they first opened a small restaurant, Times Grill at 635 Kapiolani Boulevard, offering 24-hour service. I have had the privilege of knowing these brothers for over 50 years.

After the attack on Pearl Harbor, Herman and Wallace volunteered to serve in the U.S. Army. They served with the most decorated infantry regiment of World War II—the 442d Regimental Combat Team. Sgt. Herman Teruya, while charging up an Italian hill occupied by crack German soldiers made the supreme sacrifice. His valor is legendary in our regiment. After the war, Wallace returned to Honolulu to resume his activities that began before the war.

Together, the remaining brothers decided to take the big step and established a supermarket; it was called Times Supermarket. Today, 47 years later, Times Supermarket is the largest supermarket chain in the State of Hawaii. It is a household name.

We must keep in mind that we are all descendants of immigrants. This is the success story of the Teruya family, where the values of hard work and sacrifice have enabled them to live the American dream.

Mr. President, I ask that this special story of the Teruya brothers be printed in the RECORD.

The article follows:

THE TERUYAS

(By Don Chapman)

This is why people have always come to America, and why a teeming mass still strains to reach our shores. This is the American Dream, equal parts sweat and sacrifice, and if you're lucky a place in the sun and chickenskin on the Fourth of July.

It's about immigrant kids starting out dirt-poor on a plantation, taking a chance in the big city, working long and hard, living frugally and saving, serving their country in war even as their peers are rounded up into concentration camps, losing a brother in that war and then making his dream come alive.

It is timeless Americana. And it is the true story of the Teruyas of Times Supermarkets, which today operates 13 stores on Oahu and employs nearly 1,000 people.

"It's hard to imagine taking that risk, leaving your home to go to a foreign country to look for opportunities," says Wayne Teruya, who 2 years ago took over the company that his father and uncle founded in 1949. "But that's what my grandparents did. They came from Okinawa to work on the plantations."

The Teruyas have been trying bold, new things ever since. The first Times, for instance, was the first retail store in Hawaii to offer air-conditioning (1949). The Liliha store was the first to be integrated into a condominium complex (1975). The Waialae store was the first to use a bar-code scanner at the checkout counter (1979). Today, Times is the leader in supermarket pharmacies.

The Times story really begins with Albert Teruya, Wayne's uncle. Seeing no opportunity to improve his bleak life on the Wailea plantation, he left Maui in 1929 at the age of 15 and caught a steamer to Honolulu. Two years later, his brother Wallace joined him.

"They started out working in restaurants," Wayne says.

The Great Depression was on, and one benefit of restaurant work was that it provided room and board plus wages. The brothers worked 14 hours a day, but the enthusiasm of youth fueled by a dream of something better kept them going. In 1936, they pooled their savings and bought the lunch counter at a downtown drug store for $600 and named it the T&W Lunchroom.

Three years later, in partnership with their cousin, Kame Uehara, with whom Albert had first lived in Honolulu, they opened Times Grill at 635 Kapiolani Boulevard, offering 24-hour service.

Albert says the name Times, which they took with them to the grocery business, expresses the company's progressive attitude: "Keeping up with the times."

Two other reasons they chose that name 57 years ago: Times was easily pronounced by non-English speaking immigrants and it fit easily on a small sign.

Two years later, Pearl Harbor was attacked. Wallace and another brother, Herman, put their dreams on hold and enlisted in the 442nd. In Italy, Sgt. Herman Teruya gave the ultimate sacrifice. While charging an enemy position, the young infantryman was killed.

Wallace returned from the war with Herman's dream still alive.

"My uncle Herman had been interested in opening up a grocery store," says Wayne Teruya, son of Wallace. "My father and uncle decided to pursue that route. They thought there was more opportunity in the grocery business. The restaurant business is long hours, even after-hours, and there's bars and drinking involved. So they decided to try the supermarket business. They got involved in different aspects of the business, working for suppliers, working for another supermarket, learning all the aspects of the grocery business so when they opened their own business, they had a broad perspective of all the different departments."

Selling groceries is far different today than it was when Albert and Wallace first opened the doors in 1949.

"In those days you didn't have too many choices, but in today's marketplace you have too many choices," Teruya says with a laugh, then turns serious. "It's not only the other supermarkets, but Longs, Walmart, K-Mart, as well as the Costcos and convenience stores. We know you have your choice of going anyplace. We know you don't have to come to Times Supermarket to do your shopping. It's not just that you have to eat so you come to our store. We have to deserve your business.

"We're still struggling with the Costcos and Sam's Clubs. The impact of them is that many of our customers go [to discount markets] for their big bulk buys. If they're having a big party, they may decide to go there. So our effort is still to give good customer service and give them good reasons to come into our store."

One innovation that sets Times apart is its pharmacies. "We have the opportunity in the supermarket industry in the state of Hawaii to be the front-runners," Teruya says. "All but two of our 13 stores have pharmacies. Safeway only has three. Star has two.

"Pharmacy is one of the departments that makes us different among the supermarkets, and one where we're not really challenged. Longs, a regular drug store, is our major competition. With Payless out of the market now, as far as chain pharmacies in Hawaii, it's Longs and Times Supermarkets."

Teruya adds that with the Baby Boomer generation turning 50—as he will next year—and becoming senior citizens, a period in human lives that often requires more medical attention and more medicines, Times' pharmacies are in a position to both take advantage of that demographic situation and to help customers: "If they have diabetes, for example, you can suggest to them food products that will help them in their diet to control the diabetes. We're working on programs where we can give advice on diet needs which crosses over to our foods. Drug cost is a small component of a person's overall health care cost, so if we can do a better job in the pharmacy, the overall medical cost can come down."

Teruya says Times is working on the other innovations in the tradition of Albert and Wallace, but doesn't want to tip his hand just yet.

As he looks forward, Teruya glances in the rearview mirror of life. He considers the risks taken by his immigrant grandparents and the hard work of his industrious father and uncle: "Yes, it does make you feel good to come from people like that. And I feel a responsibility to continue it."

Sometimes when you look in that rearview mirror, some objects appear larger than life. It must be that way for the Teruyas.

In 1947, Wallace, Albert and Kame sold Times Grill—to a former employer at the Kewalo Inn who had just returned from a California internment camp—and began methodically learning the grocery business. Wallace worked in Amfac's grocery warehouse and at Tom, Dick and Harry's market on Kapahulu. Albert worked at Sears, where he learned how a big company operates and about customer service.

On April 29, 1949, with the help of friends and family who helped stock shelves, they opened the first Times Supermarket, the McCully store at 1772 South King Street.

That first store was small by today's standards, but it was modern, well-stocked and air-conditioned. And, says Teruya, it featured Albert and Wallace's basic philosophies that continue to guide the company: "High-quality merchandise, competitive prices, excellent service. And the customer is always right."

"My father was more customer relations, my uncle was more administration, looking at the overall operation," says Wayne Teruya. "They were a good balance."

They still are, even in their 80's.

"They've never really retired," Teruya says. They still come into the office every day, still visit the stores. You'll never get the business out of their blood."

Their tradition of innovation remains a part of the company.

"We always try to do that, we're always looking for new ways of doing things," says Teruya. "But we're not afraid to copy a good idea, either. If we see something that our competitors are doing and it's working, then yeah, we'll follow."

He recalls that when his father took his wife, Ethel, and their four children on vacation to the Mainland, part of the itinerary was always checking out supermarkets.

"My father would drive and no matter where we were going, if we passed a market, he'd pull into the parking lot. Sometimes we all went in, sometimes we stayed in the car, and he'd go in to see if he could get any new ideas. He's still curious to see what things are working."

Wayne, 49, was 2 when the first Times opened. He has no recollection of that big day in family history, but has plenty of other memories of growing up around groceries:

"I remember running around in our McCully store as a little kid, going upstairs, visiting the offices. The store was closed on Sundays, but a lot of times my father would go to the store on Sunday and take us along and we'd work, either stocking shelves or pulling out merchandise."

He is the second of four children—older brother Raymond is chairman of the Times board. Wayne's first real job was a bag boy at Times:

"I must have been 14-15. I had fun bagging groceries. Then after a few summers, I trained to be a cashier, which I really enjoyed—that's where you get the direct contact with the customers. We always tried to see who could pull in the biggest loads (ring up the most sales). And those were not the automatic scanning days like now. We punched those big NCR (National Cash Register) machines with rows and rows of keys."

Was it tougher being the son and nephew of the bosses?

"I don't think so," Teruya says. "The problem is I was never sure of how good of a job I was doing because maybe people didn't want to tell me I was doing something wrong because of who I was. But hopefully I never did anything wrong."

He graduated from Mid-Pacific Institute and the University of Hawaii, where he majored in accounting.

"I worked for a CPA firm just for a little while at the end of my college years and right after I graduated," he says. "But then I had the opportunity to get into the Times accounting department."

He rose to vice president of sales and executive vice president before being named president and CEO two years ago.

It was during his UH years that he met his wife, Sharon. They are the parents of three sons: Weston, 19, a sophomore at Pomona University in California; Wade, a high school senior and Wyatt, a high school sophomore.

So far, Wade is the only third-generation son who has expressed any interest in the grocery biz.

"If they ever get interested, fine," Teruya says. "I don't want to push them into the business. My father didn't push us into the business. I worked part-time and after a while I decided it was fun."

He met Sharon, he says, "at a beach party at Ala Moana. Nowadays, it's kind of spooky down there at night; I'd never want my kids doing that. But it was love at first sight—for me, not for her. I had to chase her for a while. But we just had our 25th anniversary."

His advice for staying together long enough to celebrate a silver anniversary: "Don't get upset when you have fights. You have to expect to have disagreements. And you have to discuss each other's point of views, so you understand where you're both coming from. And just stick in there because you'll have your ups and downs."

That sounds a lot like his business philosophy, too.●

TRIBUTE TO DIANA LEWIS

● Mr. WARNER. Mr. President, I rise today to extend my warmest congratulations to Diana Lewis of Charlottesville, VA, on her selection as the 1996 Private Sector Employee of the Year by the General Council of Industries for the Blind and the National Industries for the Blind. She will be honored at their Annual Training Conference on October 8, 1996.

Ms. Lewis was born with congenital cataracts. She underwent several eye operations as a young child, which delayed her entry into school. However, her desire to succeed did not waiver. She attended Romney School for the Blind in West Virginia but left school early to marry, become a homemaker, and eventually became the mother of two sons.

Ten years ago, Ms. Lewis moved to the Commonwealth and soon faced the challenge of finding her first job. As a single parent with two young sons, Ms. Lewis turned to the Virginia Industries for the Blind [VIB], a division of the Virginia Department for the Visually Handicapped [VDVH], for employment and training opportunities. She quickly demonstrated her desire to succeed by mastering many sewing operations, becoming an accomplished seamstress.

During her employment at the Virginia Industries for the Blind, Ms. Lewis earned her general education diploma [GED] and continued her education to become a certified nursing assistant. She joined Westminster Canterbury of the Blue Ridge in Charlottesville a year ago, and is currently employed as a certified nursing assistant in the skilled care unit. As a nursing assistant, Ms. Lewis tends to elderly residents who require constant care. Ms. Lewis hopes to one day become a physical therapist.

Ms. Lewis' drive and dedication to overcome adversity makes her an example for all of us. I am pleased to join Ms. Lewis and her family and friends in wishing her much success in all of her future endeavors. Ms. Lewis is an outstanding representative of the blind community in Virginia, and I ask you to please join me in congratulating her as the 1996 Private Sector Employee of the Year.●

SHUT DOWN THE U.S. ARMS BAZAAR

● Mr. SIMON. Mr. President, one of the finest editorials I have read in recent months appeared in the Chicago Tribune, titled "Shut Down the U.S. Arms Bazaar."

It is contrary to the security of the interest of the United States that we are the No. 1 arms merchant in the world. Not only are we the No. 1 arms merchant, but we subsidize what ultimately can prove harmful to our security.

And it is not only a threat to our security.

When I visit a place like Angola and see so many children going about with one leg missing or two legs missing and know that this has been caused, in part, by land mines built in the United States, or financed by the United States, I am troubled.

Again and again, we are in a situation where we find American weapons used against our troops. That should teach us something, but it doesn't seem to.

This is one editorial that every Member of the Senate and every staff member should read.

I ask that the editorial be printed in the CONGRESSIONAL RECORD.

The editorial follows:

[From the Chicago Tribune]

SHUT DOWN THE U.S. ARMS BAZAAR

President Clinton spoke eloquently and probably expressed the view of most citizens when, accepting the Democratic Party's nomination in Chicago last month, he pledged that U.S. foreign policy would be one that "advances the values of our American community in the community of nations."

Here's a place to start, Mr. President: End the outdated and outrageously dangerous policy of encouraging sales of American weapons abroad, particularly to countries in the developing world, unless there is a compelling U.S. security interest to be defended.

What American value is represented by the fact that the U.S. remains the largest exporter of weapons in a post-Cold War world in which there is no monolithic enemy to be contained?

Although Russia made the news in recent days by outstripping the U.S. in sales of arms to Third World governments in 1995, a careful reading of the report showed that this was an artifact of one transaction: a $6 billion sale of fighter jets to China.

Otherwise, however, Uncle Sam is boss of the arms bazaar, with contracts for about half of all arms sales worldwide. Year in and year out, America sells more weapons to the Third World than any other country.

Certainly these developing lands could put their scarce financial resources to better use, namely to build or improve schools, hospitals, sanitation and transportation systems.

Aha, you say! If the U.S. stops selling these arms abroad, someone else—Russia, France, Italy, Germany, Britain, the Czech Republic, even—will rush in and snatch up the lucrative contracts.

So what? Of the 50 armed conflicts in this decade—mostly vile ethnic, religious or tribal rivalries, guerrilla uprisings and petty territorial disputes—45 were fought with weapons stamped "Made in the USA."

Should weapons sales be our ambassador of democracy? Is increasing the efficiency of armed combatants, without regard to vital U.S. interests, a value we choose to represent America abroad?

Even espousing a traditional sense of national security, the U.S. can dominate the international arms market, according to Sarah Walkling, a senior analyst with the Arms Control Association. That's because NATO, the western military alliance that is the backbone of American national security and includes this nation's dearest allies, is the largest market for U.S. arms, consuming 43 percent of American weapons sales abroad at a cost of $3.9 billion. NATO will continue to be the biggest client for American weapons, which is a fine thing for all concerned.

But now Chile wants U.S. F-16 jet-fighters. With no international threat to the region, to what purpose would those top-of-the-line attack craft be put? Only to act upon territorial ambitions and border disputes and to spark a wasteful hemispheric arms race.

And then there's Indonesia. Indonesia is in the midst of a crude crackdown on political dissent that is the antithesis of values America wants to promote. Should Indonesia get the F-16s it wants? Certainly not.

Although Clinton pledged a values-driven foreign policy, a Presidential Decision Directive he signed last year pushes arms sales abroad to "enhance the ability of the U.S. defense industrial base, to meet U.S. defense requirements and to maintain long-term military technological superiority at lower costs."

That, in the words of William Hartung, a senior fellow of the World Policy Institute at the New School for Social Research, is nothing but welfare for big arms manufacturers and weapons dealers.

In order to help American firms get to a bigger share of the world arms market, the U.S. government spent $7.6 billion—in 1995 alone—in subsidies, grants, guaranteed loans and cash payments, and in the use of government personnel to promote products and overseas air shows, Hartung says.

The argument that these arms sales abroad protect jobs at home is no longer necessarily true, since many new purchasers now demand, as part of the contract, the right to produce these expensive weapons on their turf. Thus, Hartung says, the biggest production line for the F-16 is no longer in the U.S. but in Turkey.

Even more sinister is the concept of "blowback."

During the Cold War, a powerful argument for arms sales abroad was to allow the United States leverage over foreign powers and to give us inside knowledge about another power's arsenal—to "know what we're up against." Today, all bets are off, and what American troops have come up against is the finest American weapons wielded by opposition troops—in Panama, in Iran, in Iraq, in Haiti, in Somalia and, to a smaller extent, in Bosnia.

America cannot control its weapons once sold. Allies whose national security interests coincide with ours deserve our trust and have earned the right to purchase American-made weapons.

But weapons sales motivated solely by a market opportunity merely fuel conflict—conflict that may require America to step in later with its diplomatic and military muscle.

There is no profit in that.•

AD-HOC HEARING ON TOBACCO

• Mr. LAUTENBERG. Mr. President, on September 11th, I co-chaired with Senator KENNEDY an ad-hoc hearing on the problem of teen smoking. We were joined by Senators HARKIN, WELLSTONE, BINGAMAN and SIMON. Regrettably, we were forced to hold an ad-hoc hearing on this pressing public health issue because the Republican leadership refused to hold a regular hearing, despite our many pleas.

We held this hearing to listen to real people tell us about the addictiveness of nicotine and their support for the President Clinton's FDA proposal to cut teen smoking in half. Unlike one of the other Presidential candidates, we know that nicotine is addictive. And we know that the FDA should regulate it and protect our children.

We also made it clear that we will reject half hearted compromise legislative proposals which do not protect our children from the tobacco companies.

Essentially, we will oppose any compromise legislation that does protect FDA's ability to safeguard our kids or the public health. Our first priority in any legislative settlement should be to save our children from future nicotine addiction.

Mr. President, President Clinton deserves credit for being the first President in recent history to take on the tobacco companies. He has an excellent record of protecting our children.

However, this Congress' record on tobacco and children is shameful.

On January 3, 1995, a new Republican majority took over Congress. They publicly pushed their Contract with America. But privately, they pursued another contract—a contract of silence with the tobacco companies.

Since the Republicans took over Congress, more than 660,000 people have died from smoking and over 1.7 million of our children have begun smoking.

What has been this Congress' response to this public health epidemic? Pure silence.

In one fell swoop—gone were the House hearings where the CEO's swore under oath that nicotine was not addictive. And gone were the Senate hearings on the dangers of secondhand smoke and the health care benefits of increasing the tobacco tax.

It took President Clinton's bold FDA policy to break the silence. And we need to make more noise—to stop our children from ever becoming hooked. We need to fight the biggest cause of preventable death in America—tobacco use. Because like AIDS, silence equals death when it comes to tobacco.

At the hearing, we heard from several witnesses who have first-hand knowledge of the dangers of tobacco addiction. We heard from Justin Hoover, a 12-year-old boy from West Des Moines, IA who told us how he smoked his first cigarette at the age of 6, and was addicted to tobacco when he was 9. He told us how easy it was for him to obtain cigarettes, often by stealing them. He told us how difficult it has been for him to try and break his addiction, despite the best efforts of his mother, teachers, and his DARE officer, Jody Hayes, who accompanied Justin at the hearing.

Officer Hayes said that the level of smoking among teens is the worst that he has seen. He also told us that tobacco is clearly a gateway drug that can lead to marijuana and cocaine use. He strongly admonished us that "we have to stop drug use where it starts, and that is with tobacco."

We also heard from Minnesota Attorney General "Skip" Humphrey who

told us of his concerns of proposed Federal legislation to resolve all litigation and regulation affecting the tobacco industry. He noted that it is essential that tobacco "like every other product Americans eat, drink or ingest, be placed under the on-going jurisdiction of an appropriate Federal agency, such as the FDA."

We listened to the testimony of Dr. Ian Uydess, who worked as a research scientist for Philip Morris for over 10 years. He told us how well informed the tobacco industry has been regarding the health effects and addictive quality of tobacco. He said that the major tobacco companies could have used this information to develop a safer product, but they chose not to do so.

We also heard from Morton Downey, Jr., the former talk-show host whose symbol was the smoking cigarette butt. As he has contracted lung cancer, he now asks forgiveness from the young people he may have influenced to smoke.

Alan Landers, a former Winston model, told us of the pain caused by two lung operations. He gave riveting testimony on the addictiveness of tobacco. He told us that he was smoking the night before he was to have lung surgery because he could not quit. He now tours high schools warning children of the dangers of smoking.

Janet Sackman, another former cigarette model, bravely testified how when she was 17, she was told by an agent that if she wanted the look to get ahead in the business, she should start smoking. She developed cancer of the larynx and now struggles to speak.

Mr. President, these people are a testament to the tragedy of tobacco addiction in this country. And they all have two things in common. They started smoking before they were 18 and they all have cancer. These examples demonstrate why the President's proposal to protect our children is so crucial.

Mr. President, after I complete my statement, I am going to ask that the statements of the participating in ad-hoc hearing be placed in the record. Over the next 3 days I will insert the testimony of the witnesses from each of the three panels. I hope that all of my colleagues, from both chambers and both sides of the aisle will read these compelling statements. Regrettably, this will be the only hearing record on tobacco issues this Congress, despite the constant revelations in the press about industry documents outlining the dangers of smoking.

I only hope that the next Congress' record on protecting our children is not as shameful.

Mr. President, I ask that the statements of the Senators attending this ad-hoc hearing be printed in the RECORD.

The statements follow:

STATEMENT BY SENATOR FRANK R. LAUTENBERG

First, I would like to thank Senator Kennedy for co-chairing this hearing with me and all of the other Senators who are participating. I would also like to welcome and thank all of the witnesses for being here at today's ad-hoc hearing on teen smoking.

We are here to show our support for the FDA proposal to cut teen smoking in half. Unlike one of the Presidential candidates, we know that nicotine is addictive. And we know that the FDA should regulate it and protect our children.

Today, we are also here to say that we will reject half hearted compromise legislative proposals that do not protect our children.

We will oppose any compromise legislation that does protect FDA's ability to safeguard our kids or the public health. Our first priority in any settlement should be to save our children from future nicotine addiction.

President Clinton deserves credit for being the first President in recent history to take on the tobacco companies. He has an excellent record of protecting our children.

On the other side of Pennsylvania avenue, however, this Congress' record on tobacco and children is shameful.

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In one fell swoop—gone were the House hearings where the CEOs swore under oath that nicotine was not addictive. And gone were the Senate hearings on the dangers of secondhand smoke and the health care benefits of increasing the tobacco tax.

It took President Clinton's bold FDA policy to break the silence. And we are here to make more noise—to stop our children from ever becoming hooked. We are here to fight the biggest cause of preventable death in America—tobacco use. Because like AIDS, silence equals death when it comes to tobacco.

Today, we will hear from people who know firsthand about the dangers of smoking. We will hear from a 12 year old child who is addicted to cigarettes and his DARE officer. We will hear from a former Philip Morris research scientist who will tell us that the tobacco industry knew full well that nicotine was addictive and manipulated it to hook smokers. We will hear form Minnesota Attorney General "Skip" Humphrey who is taking on the tobacco industry in court on behalf of our children.

Before we proceed, I wanted to let the participants know that there will not be an official hearing transcript for this proceeding but I will insert all written statements into the Congressional record so your stories will become part of the official record of the Senate. I hope my colleagues from both sides of the aisle and both chambers, will read your testimony and work with us to save our children.

STATEMENT OF SENATOR EDWARD M. KENNEDY

Twenty-nine years ago today, on September 11, 1967, my brother, Senator Robert Kennedy addressed the World Conference on Smoking and Health. Representatives of thirty-four nations had gathered in New York to talk about ways to stop mounting death rates from cigarette smoking.

He spoke to his audience about the difficulty of convincing people—young persons, in particular—that smoking can kill them. He emphasized grim statistics of premature death and illness caused by smoking. He said that cigarettes would have been banned years ago—were it not for the economic power of the tobacco industry.

Limiting cigarette advertising was at the top of his list of strategies to discourage young men and women from beginning to smoke. At that time, the industry was spending $300 million a year to attract new smokers.

Since then, the amount the industry spends on advertising has soared to $6 billion a year. Much of this advertising is targeted at youth, with images that promise popularity and success for those who smoke. Children are particularly vulnerable to this sort of advertising. The Joe Camel campaign was cynically targeted directly at youth. Profits rolled in, and Camel's market share among youth soared from 0.5% to 32.8%.

The industry targets youth because it knows that almost all smokers begin before they reach the age of 18. If you make it to 18 without smoking, it's very unlikely you'll ever smoke. The average smoker begins at 13—and becomes a daily smoker by 14 and a half.

For over 30 years, using its relentless political power, the tobacco industry has managed to avoid needed federal regulation of their product. it has been said that tobacco is the least regulated of any legal product.

Now, at last, President Clinton has had the courage to insist on real steps to reduce youth access to tobacco and tobacco advertising aimed at youth. His goal is to cut teen smoking in half over the next seven years.

President Clinton's proposal comes at a crucial time for America's youth. Not only has smoking been rising steadily among adolescents since 1992, but drug use, especially use of marijuana, is also rising among this same group.

Clearly, tobacco is a gateway drug. If we reduce tobacco use, we will reduce other drug use too. According to a 1994 report by the National Center on Addiction and Substance Abuse at Columbia University, children who smoke cigarettes are 12 times more likely to use marijuana and 19 times more likely to use cocaine.

Our hearing today is intended to deal with these important issues. It speaks volumes that the Republican Congress is unwilling to hold a hearing like this. But we hope they will pay attention to the facts we will hear.

STATEMENT OF SENATOR TOM HARKIN

I want to join my colleagues in thanking all of the witnesses who have given their time to be with us today, and I want to add a special welcome to our witnesses here from West Des Moines, Iowa—Justin Hoover and Officer Jody Hayes—who I will be introducing in just a moment.

All of us are here because we all agree—we need to protect our children from tobacco—and we need to do it now.

For too long, young people have been getting an unfiltered message from the tobacco industry. Smoking is cool. Smoking is harmless. Smoking will make you look older and more attractive.

Today, the tobacco industry pours over $6 billion a year into advertising their products and promoting that message. And often they are zeroing in on our kids—through magazine ads, billboards, sporting events, and, of course, the ubiquitous Joe Camel.

We know what these tobacco advertising campaigns are all about. They are deliberately designed to keep people smoking, but

more importantly, to attract a new generation to the smoking habit. In fact, according to a study published in the Journal of the American Medical Association, Joe Camel is just as recognizable to six-year old as Mickey Mouse.

But the industry hasn't stopped with Joe Camel. Joe and his competitors have started merchandising "clubs" in which you can smoke your way to all sorts of gifts. A 1992 Gallup survey found that about half of adolescents smokers and one quarter of nonsmokers owned at least one tobacco industry promotional item.

The motivations of these tobacco companies is clear. They'll do anything to make a buck. But I can't understand irresponsible statements made by some of our elected officials regarding tobacco.

Some in Congress have compared tobacco to milk or to chicken soup. What kind of message does that send to our kids?

There is a difference. Milk builds. Tobacco destroys. Chicken soup heals. Tobacco kills.

The only message that our children should hear about tobacco is the truth. Smoking is a killer. Smoking is addictive. Smoking stinks. It's a deadly habit that will make kids less attractive and less fit. That message needs to come through loud and clear so children like Justin are never tempted in the first place.

That message needs to start at home. Parents need to let their children know about the dangers of tobacco. But the message shouldn't end in the home. All of us can be partners with families in the fight against tobacco.

We need to make much more difficult for children to get their hands on tobacco in the first place.

Kids shouldn't be able to walk into a convenience store and purchase cigarettes . . . or buy them out of a vending machine . . . or even be tempted to steal cigarettes left in the open in self-service displays.

President Clinton has put forth a responsible plan. The President's plan is the right thing to do. It will help families keep tobacco out of the hands of their children. And I strongly support it.

But I believe we can do more to protect kids from tobacco and strengthen families. That's why I have introduced common sense legislation to eliminate the tax deductibility of tobacco advertising. Today, American taxpayers are forced to cough up nearly $2 billion a year to subsidize the tobacco industry. That's not right and we ought to stop it.

Again, I want to welcome Justin Hoover and Jody Hayes. Justin is 12 years old and is from West Des Moines Iowa. He smoked his first cigarette when he was 6-years old.

He is going to tell us how and why he started smoking, how he has tried to quit, and how easy it is for him to obtain cigarettes.

I also want to welcome Officer Jody Hayes who is a Community Relations Officer for the West Des Moines Police Department. He is a D.A.R.E. (Drug Abuse Resistance Education) officer and works with students from pre-school to high school. He is on the front lines in the fight against drug abuse.

And he has seen first hand how easy it is for young children to gain access to tobacco and how vulnerable they are to the industry's message that smoking is cool.

Officer Hayes, I want to thank you for not only being here today, but for the work you do day in and day out to protect our kids and help them stick to the right path. I just can't understand why some in Congress want to cut funds for the D.A.R.E. program and stop people like you from doing the great work you do.

STATEMENT OF SENATOR JEFF BINGAMAN

I am pleased to be a part of this Ad-Hoc hearing on tobacco issues and in particular the health effects of tobacco use. As many of you know, I have been a strong advocate of taking a tough stand on the issue of federal regulation of tobacco products. Since 1989, I have been working to require the Food and Drug Administration (FDA) to regulate the manufacture and sale of tobacco products. I was very proud last year when Congress approved my legislation banning cigarette vending machines in federal buildings on most federal property, and very pleased earlier this year when the General Services Administration (GSA) ordered the removal of the machines.

For many years, I also have been working to ban tobacco vending machines on Federal property that are accessible to children. Clearly, something is not working when, every day, more than 3,000 children and teenagers start smoking and 1,000 of them will die from tobacco related illness. In New Mexico, nearly one-third of the state's teenagers smoke. According to the Centers for Disease Control and Prevention, New Mexico has a teenage smoking rate of 32.6 percent—only eight other states have higher rates. It is difficult to prevent children from buying cigarettes when they are readily accessible from vending machines. If we expect states, localities, schools, parents, and even the tobacco industry itself to help protect our children from tobacco, then we in the federal government should lead the effort.

It is time for a new course of action. I am very pleased that President Clinton is expanding the Federal role in fighting teen smoking. This initiative to reduce tobacco use by children recognizes the responsibility that the federal government should take to protect our children from tobacco use.

Finally, 10 years ago as a senior member of the Armed Services Committee, I first introduced legislation aimed at discouraging tobacco use in the military by raising the prices of tobacco products in military commissaries to local prevailing prices. Cigarettes are much cheaper in commissaries and exchanges than they are in the civilian market. In August this year, the Department of Defense (DoD) ordered the sale of tobacco products found in commissaries and exchanges to be sold at local prevailing prices. I am pleased to see that the DoD now agrees that we need to stop sending mixed signals to military personnel about the importance of healthy lifestyles while at the same time deeply discounting tobacco products in military stores.

I commend my colleagues here today for keeping this very important issue alive during this Congress and for leading the effort to continue to address the types of laws and policies that will protect our children from tobacco.

STATEMENT OF U.S. REPRESENTATIVE MARTY MEEHAN

I want to thank Senators Ted Kennedy and Frank Lautenberg for allowing me to submit my testimony before this ad hoc committee hearing on tobacco. I appreciate the opportunity to participate in this important, if unofficial, event.

The new majority, in both the House and Senate chambers, does not believe that the epidemic of youth smoking is an important enough issue to merit an official hearing. Only through the leadership of Senators Kennedy and Lautenberg is today's ad hoc hearing possible. I commend them both for organizing this event.

Nicotine addiction and subsequent tobacco related illnesses are the leading cause of preventable death in the United States. Each year, more than 400,000 smokers prematurely die due to tobacco related illnesses. The ranks of smokers, however, are replenished by our nation's children.

Tobacco companies have long targeted and marketed their wares towards America's kids. RJ Reynolds' Joe Camel campaign is only the latest in a string of strategies the tobacco industry has employed to entice young people. The industry is forced to target children because adults, in the face of overwhelming medical and scientific evidence, are not impressionable enough to start using a product that, if used as directed, will kill them.

The tobacco industry is committed to pushing cigarettes and smokeless tobacco product. In fact, each year the industry spends more than $6 billion on advertising and marketing in the United States. This massive advertising is successful for the industry. Eighty-six percent of underage smokers buy the three most heavily advertised brands—Marlboros, Camels and Newports. Moreover, ninety-one percent of six year-olds identify Joe Camel as a symbol of smoking.

As a result, 3,000 children a day, convinced through a combination of peer pressure, advertising and popular culture, start smoking. 1,000 of these youngsters will ultimately die from tobacco related illnesses.

President Clinton has taken a historic move in directing the Food and Drug Administration to enact the first-ever program to protect children from tobacco. The FDA has concluded that cigarettes and smokeless tobacco are delivery devices for nicotine, a drug that causes addition and other significant pharmacological effects.

The FDA's regulations, which are intended to reduce underage tobacco use by fifty percent over the next seven years, include long overdue restrictions on advertising and marketing, along with an industry sponsored tobacco control campaign.

I strongly support President Clinton's heroic leadership on this most important issue. Unfortunately, the tobacco industry has many allies here on Capitol Hill who will most likely launch an effort to derail the FDA's regulations.

According to recent reports, the tobacco industry, in just the first six months on 1996, has spent more than $15 million lobbying Congress, the White House and federal agencies. Moreover, campaign donations, both soft and hard, are up dramatically, as the industry prepares to launch a most expensive offense against federal efforts to control youth tobacco use.

While the industry may have the financial wherewithal to spend millions of dollars to influence legislators and advertise their misleading messages, public opinion seems to have permanently shifted against Big Tobacco. Through internal documents and the brave testimony of former employees, two of who are here today, decades of duplicity on behalf of the Big Tobacco have been exposed and etched into the collective consciousness of the American people.

Those of us in Congress who support President Clinton's actions on tobacco have a responsibility to not only herald these regulations but also hold the line against industry efforts to water them down. Today's hearing should reinforce the idea that the FDA's regulations, and jurisdiction, is necessary to

protect future generations of American children. Once again, I applaud the leadership of Senators Kennedy and Lautenberg on this issue and I look forward to working with both of them in the future.•

SALUTE TO "ODYSSEY OF THE MIND" PARTICIPANTS FROM BETHANY, CONNECTICUT

• Mr. DODD. Mr. President, I rise today to pay tribute to a group of remarkable young people from my home State of Connecticut. For the past 4 years, students from Bethany, a small, rural community in Connecticut, have participated in an international problem-solving competition called Odyssey of the Mind. This competition gives children in grades kindergarten through 12 the opportunity to develop their problem-solving and team-building skills by challenging students to develop unique ways to solve one of five long-term problems. A team spends countless hours together to develop and perfect a unique solution to the problem set before them. Their efforts are judged in a state competition and the winning team is asked to represent their state or country at the Odyssey of the Mind World Finals.

Earlier this year, two groups of students from Bethany, CT, won first place in their respective categories at Connecticut's Odyssey of the Mind State Finals and traveled to Iowa to represent the State of Connecticut at the Odyssey of the Mind World Finals.

Connecticut is very proud of Rosa Allison, David Berv, Ian Stebinger, Amanda Kaletsky, Amanda Sherman and Grace Menzies, who made up a team that won a gold medal in the Connecticut Odyssey of the Mind Competition 3 years in a row. I would also like to salute the hard work and dedication of Joshua Gewirtz, Elizabeth Cowan, Matt Voloshin, Jane Ballerini, Peter Geloso, Kerrilee Hunter and Paula Rashkow who also represented Connecticut at the Odyssey of the Mind Finals this year. In addition, I congratulate the students' coaches for a job well done.

Clearly, these young students are fine examples of what can be accomplished when people put aside their differences and work together toward a common goal. Their creativity, hard work, perseverance and willingness to take risks remind us that Yankee ingenuity is still alive in Connecticut. I salute these young people and am confident that we will all be hearing more about these exceptional students in the future.•

COMMEMORATION OF LAWSUIT ABUSE AWARENESS WEEK

• Mr. ROCKEFELLER. Mr. President, today I want to acknowledge a group of citizens in West Virginia who are speaking out on the issue of lawsuit abuse in an effort to serve the public.

In many areas of West Virginia, local citizens have volunteered their time to start Citizens Against Lawsuit Abuse groups and to initiate public awareness campaigns in their areas about what they see as the problems of lawsuit abuse.

The CALA groups focus on education. These citizens are speaking out about an issue that has statewide and national implications. The costs of lawsuits can include higher costs for consumer products, higher medical expenses, higher taxes, and fewer jobs due to lost business expansion and forgone product development.

Citizens Against Lawsuit Abuse has a straightforward goal. They want to help the public prevent unnecessary lawsuits that do more harm than good.

West Virginians are not the type of people to walk away from a problem. When we see something that's clearly wrong, we work to make people aware of it, and we try to make it right. CALA members believe that they have the opportunity to reform our laws so that the legal system is more fair, more effective, and more sensible to serve everyone's interests.

These nonprofit groups have raised local funds to run educational media announcements and are speaking to local organizations and citizen groups across the State to raise public awareness on the lawsuit abuse issue.

While the local groups have thousands of supporters, there are also a few individuals who should be recognized for their leadership and for dedicating countless volunteer hours. These individuals are: Tom Harriman of Kingwood, founding chairman of CALA of northern West Virginia; Jim Thomas of Charleston and Jack Klim of Huntington, cofounders and spokespersons of CALA of southern West Virginia; and Ken Lowe of Shepherdstown, founding chairman of CALA of eastern West Virginia.

Citizens Against Lawsuit Abuse groups have declared September 22 through September 28, 1996, to be Lawsuit Abuse Awareness Week in West Virginia. I want to commend all of the individuals who are involved in Citizens Against Lawsuit Abuse for their dedication and commitment to this important citizen education project.

As someone who has been a leader in the battle of product liability reform, I continue to hope for the kind of education, dialog, and consensus-building clearly needed to address problems in our legal process that hurt consumers, victims, and the private sector. I encourage CALA to continue raising these issues and promoting solutions that ensure justice and improve the legal system. West Virginia and the country as a whole need informed, educated, and dedicated citizens to help elected officials address serious issues and achieve reforms when necessary.•

POSTAL SERVICE IN GEORGIA

• Mr. COVERDELL. Mr. President, as we complete the appropriations process for fiscal year 1997, I would like to take this opportunity to make my colleagues aware of the unacceptable manner in which the Postal Service has operated in a matter involving an address change request in my home State of Georgia.

Mr. President, for 25 years, residents of an area informally known as Centerville, GA, located in Gwinnett County, have been trying to work with the Postal Service for a facility that is closer to their homes, and an address that reflects the location in which they live. Although these Georgians reside in Gwinnett County, their address is dictated by the Postal Service is Lithonia, GA—a town that is approximately 15 miles away, and is located in a different county.

Not only are those citizens having problems with their mail delivery, such as stolen and misdelivered mail, their address designations has created great confusion in dealing with everyday household issues such as emergency service, insurance, property taxes, sales taxes and parcel delivery. Even small matters, such as ordering a takeout pizza, often result in unnecessary confusion and inconvenience when giving addresses. In addition, a round trip to the post office to pick up certified mail or parcels is more than a 30 minute round trip for these people—metro-Atlanta traffic notwithstanding.

Instead of recognizing the problems that the Postal Service's address designation was causing for these residents and trying to work out a mutually agreeable solution, the Postal Service has treated the requests of these residents in a manner unbecoming of an agency of the United States, and has acted in complete disregard for principle. In the name of efficient delivery of mail, the Postal Service has steadfastly refused the repeated requests of these residents to move their routes to a facility in Snellvile, GA, which is located less than 3 miles from their homes. Postal Service representatives have even gone as far as to attack the motives of the residents requesting this change.

Mr. President, to give you an idea of the overwhelming community commitment to a change of address, approximately 5,000 Gwinnett County residents have been assigned a Lithonia address by the Postal Service, and my office received a petition from 4,024 of these residents requesting an address change.

When this matter first came to my attention, our office in conjunction with Congressman JOHN LINDER made several inquiries to the Postal Service, and at each point received conflicting responses. As we delved further into the matter, we learned that the Postal Service had not been completely open and honest in its responses.

Postal representatives have also refused to honor an offer to set up temporary postal facilities if a location could be found rent-free for 2 years. There appears to be some confusion among postal representatives on the exact details of the offer.

We understand and appreciate the Postal Service's mission of timely and efficient delivery of our mail, but this does not override the fact that the Postal Service is an agency of the U.S. Government and is subject to abide by the principles of government by the people and for the people as is outlined in our Constitution.

After almost a year of negotiations, the Postal Service has now made an offer to the residents to change the last line of their address to Annistown, GA, and to provide them with a new Zip Code. However, the Zip Code change has yet to be approved. Although this does not solve the problem of the proximity of a postal facility, it will help them in dealing with the difficulties that their address was creating. I therefore urge the swift approval of this Zip Code change by the Postal Service.

At a town meeting held to discuss the proposal, the Postal Service refused to officially attend to answer questions that the community had about the proposed change. However, after the meeting, we learned that Postal Service employees secretly attended the meeting and took notes.

Mr. President, it is my opinion that this type of behavior is completely inappropriate for the employees of an agency of the U.S. Government. The Postal Service had every opportunity to make its argument in a public forum, and chose not to do so.

This is the second entanglement I have had with the Postal Service where I have found their behavior to be an abomination to the citizens of our country. If the Postal Service continues to operate in such a manner, we must consider the need for further congressional oversight.●

COMMENDING OPERATION SAIL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 64, a joint resolution to commend Operation Sail, introduced earlier today by Senators DODD, D'AMATO, and others.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 64) to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the joint resolution be deemed read three times; passed; the motion to reconsider be laid on the table; further, that any statements relating thereto appear at this point in the RECORD, as if read.

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

The preamble is agreed to.

The joint resolution (S.J. Res. 64) was agreed to.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 64

Whereas Operation Sail is a nonprofit corporation dedicated to building good will among nations and encouraging international camaraderie;

Whereas Operation Sail has represented and promoted the United States of America in the international tall ship community since 1964, organizing and participating in numerous tall ship events across the United States and around the world;

Whereas Operation Sail has worked in partnership with every American President since President John F. Kennedy;

Whereas Operation Sail has established a great tradition of celebrating major events and milestones in United States history with a gathering of the world's tall ships, and will continue this great tradition with a gathering of ships in New York Harbor, called OpSail 2000, to celebrate the 224th birthday of the United States of America and to welcome the new millennium;

Whereas President Clinton has endorsed OpSail 2000, as Presidents Kennedy, Carter, Reagan, and Bush have endorsed Operation Sail in previous endeavors;

Whereas OpSail 2000 promises to be the largest gathering in history of tall ships and other majestic vessels like those that have sailed the ocean for centuries;

Whereas in conjunction with OpSail 2000, the United States Navy will conduct an International Naval Review; and

Whereas the International Naval Review will include a naval aircraft carrier as a symbol of the international good will of the United States of America; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Operation Sail is commended for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship;

(2) all Americans and citizens of nations around the world are encouraged to join in the celebration of the 224th birthday of the United States of America and the international camaraderie that Operation Sail and the International Naval Review will foster; and

(3) Operation Sail is encouraged to continue into the next millennium to represent and promote the United States of America in the international tall ship community, and to continue organizing and participating in tall ship events across the United States and around the world.

EXPRESSING THE SENSE OF THE SENATE CONCERNING AFGHANISTAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item 515, Senate Resolution 275.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 275) to express the sense of the Senate concerning Afghanistan.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution which had been reported from the Committee on Foreign Relations with an amendment, as follows:

(The part of the bill intended to be stricken is shown in bold face brackets and the part of the bill intended to be inserted is shown in italic.)

S. RES. 275

Whereas, prior to 1979, Afghanistan was a peaceful, united country;

Whereas, the successful fight of brave men and women of Afghanistan resisting the Soviet invasion and occupation of 1979–1989 was a significant element in the dissolution of the Soviet empire;

Whereas the dissolution of the Soviet empire brought freedom to the nations of central and eastern Europe as well as to the nations of central Asia;

Whereas although many years after the Soviet Union withdrawal, Afghanistan does not enjoy the peace it has earned;

Whereas the United Nations can play a unique and important role in bringing an end to the conflict in Afghanistan; and

Whereas recent meetings between Members of Congress and the representatives of the major Afghan factions indicate a significant desire on the part of all parties to achieve a peaceful resolution to the conflict in Afghanistan and the establishment of an effective government that represents the interests of the Afghan people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courageous people of Afghanistan have earned the world's respect and support for their epic struggle against the forces of communism;

(2) resolving the continuing conflict in Afghanistan and alleviating the accompanying humanitarian distress of the Afghan people should be a top priority of the United States;

(3) outside interference and the provision of arms and military supplies to the warring parties should be halted;

(4) a unique moment in Afghan civil war exists where all major factions are searching for a peaceful solution to the conflict;

[(5) the United States should urge the United Nations to move quickly to appoint a special envoy to Afghanistan who will act aggressively to assist the Afghans to achieve a solution to the conflict acceptable to the Afghan people; and

[(6) the United Nations should work to create the conditions for a continuing dialogue among the Afghan factions.**]**

(5) urges the United Nations Security Council to impose an international arms embargo on Afghanistan to halt the resupply of arms and ammunition to the warring factions;

(6) the United States welcomes the appointment by the United Nations of a new special envoy to Afghanistan and urges him to aggressively assist the Afghans to achieve a solution to the conflict acceptable to the Afghan people; and

(7) the United Nations should work to create the conditions for a continuing dialogue among the Afghan factions.

Mr. FRIST. I ask unanimous consent that the amendment be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The amendment was agreed to.

The resolution (S. Res. 275) as amended was agreed to.

The preamble was agreed to.

The resolution, as amended, and the preamble are as follows:

[The resolution was not available for printing. It will appear in a future issue of the RECORD.]

JAMES A. REDDEN FEDERAL COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 615, S. 1875.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1875) to designate the U.S. courthouse in Medford, OR, as the "James A. Redden Federal Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1875) was deemed to be read a third time and passed, as follows:

S. 1875

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

SECTION 1. DESIGNATION.

The United States courthouse at 310 West Sixth Street in Medford, Oregon, shall be known and designated as the "James A. Redden Federal Courthouse".

SEC. 2 REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "James A. Redden Federal Courthouse".

VEACH-BALEY FEDERAL COMPLEX

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 617, H.R. 2504.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2504) to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the U.S. courthouse located on Otis Street, in Asheville, NC, as the "Veach-Baley Federal Complex."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2504) was deemed read for a third time and passed.

SAMMY L. DAVIS FEDERAL BUILDING

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 618, H.R. 3186.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3186) to designate the Federal building located at 1655 Woodson Road, in Overland, MO, as the "Sammy L. Davis Federal Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 3186) was deemed read for a third time and passed.

ROMAN L. HRUSKA UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 619, H.R. 3400.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 3400) to designate the Federal building and United States courthouse to be constructed at a site on 18th Street between Dodge and Douglas Streets in Omaha, Nebraska, as the "Roman L. Hruska Federal Building and United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 3400) was deemed read for a third time and passed.

SAM M. GIBBONS UNITED STATES COURTHOUSE

Mr. FRIST. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3710 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 3710) to designate the United States courthouse under construction at 6111 North Florida Avenue in Tampa, Florida, as the "Sam Gibbons United States Courthouse."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 3710) was deemed read for a third time and passed.

WALHALLA NATIONAL FISH HATCHERY CONVEYANCE ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3546, and the Senate proceed to its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R 3546) to direct the Secretary of the Interior to convey Walhalla National Fish HATCHery to the State of South Carolina.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5398

(Purpose: To add a provision to correct a coastal barrier resources map)

Mr. FRIST. Mr. President, Senator HOLLINGS has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. HOLLINGS, proposes an amendment numbered 5398.

The text of the amendment is as follows:

Before section 1, insert the following:

TITLE I—WALHALLA NATIONAL FISH HATCHERY

At the end of the bill, add the following:

TITLE II—CORRECTION OF COASTAL BARRIER RESOURCES MAP

SEC. 201. CORRECTIONS OF MAP.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall make such corrections to the set of maps described in subsection (b) as are necessary to move the southern-most boundary of Unit SC–01 of the Coastal Barrier Resources System (known as the "Long Pond Unit") to exclude from the Unit the structures known as "Lands End", "Beachwalk", and "Courtyard Villas", including the land lying between the structures. The corrected southern boundary shall extend in a straight line, at the break in development between the coast and the north boundary of the unit.

(b) MAPS.—The set of maps described in this subsection is the set of maps entitled "Coastal Barrier Resources System" dated October 24, 1990, insofar as the maps relate to Unit SC–01 of the Coastal Barrier Resources System.

Mr. FRIST. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, an amendment to the title be agreed to, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The amendment (No. 5398) was agreed to.

The bill (H.R. 3546), as amended, was deemed read for a third time and passed.

The title was amended so as to read:

A bill to direct the Secretary of the Interior to convey the Walhalla National Fish Hatchery to the State of South Carolina, and for other purposes.

CONVEYING A FISH AND WILDLIFE FACILITY TO THE STATE OF WYOMING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 457, S. 1802.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1802) to direct the Secretary of the Interior to convey certain property containing a fish and wildlife facility to the State of Wyoming and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5399

Mr. FRIST. Senator THOMAS has an amendment at the desk for himself and Senator SIMPSON, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. THOMAS, for himself, Mr. SIMPSON, Mr. DASCHLE, and Mr. PRESSLER, proposes an amendment numbered 5399.

The text of the amendment is as follows:

Beginning on page 2, strike line 3 and all that follows through page 3, line 11, and insert the following:

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey, in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraphs (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on land conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

Mr. FRIST. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The amendment (No. 5399) was agreed to.

The bill (S. 1802), as amended, was deemed read for a third time and passed, as follows:

S. 1802

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

SECTION 1. CONVEYANCE OF CERTAIN PROPERTY TO WYOMING.

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey in "as is" condition, to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, other than the portion described in paragraph (2), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer);

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the buildings on the portion of the property described in paragraph (2); and

(C) a permanent right of way across the portion of the property described in paragraph (2) to use the buildings conveyed under subparagraph (B).

(2) RANCH A.—Subject to the exceptions described in subparagraph (B) and (C) of paragraph (1), the United States shall retain all right, title, and interest in and to the portion of the property commonly known as "Ranch A" in Crook County, Wyoming, described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land.

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained by the State and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property described in subsection (a) shall revert to the United States if—

(A) the property is used by the State of Wyoming for any other purpose than the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures, to be used for the purposes set forth in subsection (b)(1), on lang conveyed to the State of Wyoming under subsection (a)(1)(A)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the property described in subsection (a)(2) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

TENSAS RIVER WILDLIFE REFUGE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 460, H.R. 2660.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2660) to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 5400

(Purpose: To authorize an expansion of the Bayou Sauvage Urban National Wildlife Refuge)

Mr. FRIST. Senator JOHNSTON has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. JOHNSTON, proposes an amendment numbered 5400.

The text of the amendment is as follows:

At the end of the bill, add the following:

SEC. 3. BAYOU SAUVAGE URBAN NATIONAL WILDLIFE REFUGE.

(a) REFUGE EXPANSION.—Section 502(b)(1) of the Emergency Wetlands Resources Act of 1986 (Public Law 99-645; 100 Stat. 3590), is amended by inserting after the first sentence the following: "In addition, the Secretary may acquire, within such period as may be necessary, an area of approximately 4,228 acres, consisting of approximately 3,928 acres located north of Interstate 10 between Little Woods and Pointe-aux-Herbes and approximately 300 acres south of Interstate 10 between the Maxent Canal and Michoud Boulevard that contains the Big Oak Island archaeological site, as depicted on the map entitled "Bayou Sauvage Urban National Wildlife Refuge Expansion", dated August, 1996, on file with the United States Fish and Wildlife Service."

Mr. FRIST. I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

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

The amendment (No. 5400) was agreed to.

The bill (H.R. 2660), as amended, was deemed read for a third time and passed.

The title was amended so as to read:

To increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge and for other purposes.

ANIMAL DRUG AVAILABILITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent the Labor Committee be discharged from further consideration of S. 773, and the Senate immediately proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 773) to amend the Federal Food, Drug and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Amendment No. 5401

(Purpose: To provide for a substitute amendment)

Mr. FRIST. Mr. President, Senator KASSEBAUM has a substitute at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mrs. KASSEBAUM, proposes an amendment numbered 5401.

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

Mrs. KASSEBAUM. Mr. President, I wish to thank my colleagues for agreeing to the passage of S. 773, the Animal Drug Availability Act. This legislation is designed to address the severe shortage of new drugs for the treatment of animals. The bill will modernize clinical testing requirements and make them more predictable and will improve the efficiency and timeliness of the Food and Drug Administration's [FDA] review of new animal drug applications, while at the same time ensuring that new animal drugs are safe for animals and humans and are effective.

The Senate's passage of this legislation is a testament to what can be accomplished when the FDA, the regulated industry, and Congress recognize a problem—in this case, the lack of new drugs for treating animals—and work together in good faith to craft and enact creative, reasonable solutions to that problem. Dr. Steve Sundlof, the director of the FDA's Center for Veterinary Medicine, and his staff deserve great credit for their dedication to meaningful animal drug law and regulation reform in this Congress.

I wish especially to thank each of the Members who has cosponsored and worked with me for the passage of this legislation. Without their effort and dedication to seeing this bill through the legislative process, we would not have succeeded in passing this bill today. Our former majority leader, Senator Dole, and Senators LUGAR, PRYOR, PRESSLER, GREGG, GORTON, COATS, JEFFORDS, FRIST, HARKIN, CRAIG, INHOFE, GRASSLEY, MCCONNELL, KYL, SANTORUM, HEFLIN, BOND, KERREY, BENNETT, HELMS, HUTCHISON, LOTT, BUMPERS, MACK, ASHCROFT, COCHRAN, ROTH, WARNER, FORD, KEMPTHORNE, ROBB, NICKLES, STEVENS, ABRAHAM, DASCHLE, GRAMS, CONRAD, BURNS, MOSELEY-BRAUN, DORGAN, BAUCUS, and HATCH each deserve great credit for their active support for this legislation.

I ask unanimous consent a summary of the bill be printed in the RECORD.

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

S. 773, THE ANIMAL DRUG AVAILABILITY ACT—SUMMARY

The Animal Drug Availability Act, S. 773, was introduced on May 5, 1995, by Senator Kassebaum. It was approved by the Senate Committee on Labor and Human Resources on March 28, 1996, as part of S. 1744, the FDA Performance and Accountability Act, and now has a total of 43 bipartisan Senate cosponsors. Subsequently, S. 773 was refined in close collaboration with the Food and Drug Administration (FDA), and the amendment in the nature to S. 773 reflects these refinements.

S. 773 is designed to address the serious lack of drugs for treating animals by modernizing and making more predictable the FDA's requirements for new animal drug testing and improving the efficiency and timeliness of FDA's review of new animal drug applications, without compromising either human or animal safety or product effectiveness.

These reforms include:

1. *Determination of effectiveness:* The legislation would clarify the discretionary authority of the FDA to rely on one adequate and well-controlled investigation for the determination of the effectiveness of an animal drug. The study or studies could, but would no longer automatically be presumed to, require field investigation(s).

2. *Combination drugs:* The legislation clarifies that when an already approved animal drugs are used in combination with one another, the FDA may approve the combination drug as long as none of the drugs in combination exceeds its established tolerance or none of the drugs interferes with the working of another of the drugs.

3. *Collaborative protocol design:* The legislation provides for a collaborative protocol design process. The FDA is required to meet with individuals intending to investigate or investigating new animal drugs to mutually decide on the appropriate protocol for the clinical investigation. If the FDA decides that more than one field investigation will be necessary, the FDA must set forth its scientific justification for that decision.

4. *Drugs for minor uses and species:* The legislation directs the Secretary to propose legislative or regulatory options for facilitating the approval of animal drugs for minor species and minor uses.

5. *Drug tolerance setting:* The legislation clarifies that the FDA may approve animal drugs which will not exceed the tolerance set for that drug, as opposed to requiring the manufacturer to determine an optimal dose for the drug.

6. *Tolerance for unapproved drugs:* The legislation provides the Secretary new authority to set tolerances for new animal drugs that are not approved in the U.S. but are used in animals imported for consumption in this country.

7. *Veterainary feed directive drugs:* The legislation establishes a new category of animal drugs—"veterinary feed directive drugs." This is a category of drugs between prescription drugs and over-the-counter drugs. The bill establishes a number of requirements to ensure that these drugs can be tracked and that they are used appropriately.

8. *Feed mill licensing:* The legislation establishes a new requirement for the licensing of feed mills that are manufacturing feeds containing animal drugs to ensure conformity with good manufacturing practices and for other reasons.

Mr. LUGAR. Mr. President, I am pleased that the Animal Drug Availability Act (S. 773) is before the full Senate for consideration today.

As an original cosponsor of this legislation, I recognize the need for reform of the Food and Drug Administration [FDA] animal drug approval process. Producers and manufactures of animal drugs have been concerned with the lengthy time required to gain FDA approval of animal drugs as well as the lack of new drug options available to treat livestock and poultry.

The legislation before us today is a consensus bill that is acceptable to FDA, agricultural procedures, pharmaceutical and animal health organizations and has garnered bipartisan support in the Senate. I had written to Senator KASSEBAUM recently urging prompt action on this legislation and thank her for her efforts to move this bill forward.

The bill before us today will provide FDA with greater flexibility to determine when animal drugs are effective for intended uses; streamline approval of combination animal drugs when the drugs have been previously approved separately for the same species and conditions of use; provide FDA with greater flexibility in whether field investigations are necessary to prove efficacy; and require presubmission conferences to help FDA and drug manufacturers to reach agreement on testing requirements before a drug application is submitted to FDA. In addition, the bill streamlines the drug application licenses for feed mills, permits FDA to set import tolerances for drugs used in other countries, and includes a veterinary feed directive provision which will make new therapeutic animal drugs accessible in feed form.

I urge my colleagues to support this important bill.

Mr. GREGG. Mr. President, I rise today to talk about the demise of one very important piece of legislation—the 1996 FDA reform bill—and what I hope will be the success of another—the animal drug availability reform bill. These bills represent important Republican priorities: American patients and consumers, innovation in medicine and consumer products, and a smaller role for the Federal Government.

Republicans put forth an FDA reform bill, supported in the Labor Committee by three of our Democratic colleagues, that puts the needs of our citizens first. Our goal in developing this legislation was clearly to expedite the bureaucratic review process at the Food and Drug Administration, while still recognizing their role in ensuring the safety of products such as pharmaceuticals, medical devices, and food additives being introduced into domestic and international commerce.

In the Labor Committee, our discussions focused on the reprioritization of Agency resources and attitudes in order to achieve this goal. And while some have characterized these provisions as extreme, I believe that it is important to recognize that a number of provisions in the bill that our chairman, the senior Senator from Kansas [Mrs. KASSEBAUM] assembled simply recodify current law—albeit not current practice—by the FDA.

In addition, this legislation contained a number of incremental improvements to the Food, Drug and Cosmetic Act. While I will freely admit that many of these provisions do not go as far as the changes that I advocate, I recognize the balance that Senator KASSEBAUM was attempting to strike; that is why I voted in favor of this legislation in Committee. I also would like to mention the spirit of the negotiations that I observed Senator KASSEBAUM engaged in with our Democratic colleagues and the administration. I thought her approach to this important issue was eminently fair, balanced, and accommodating.

Mr. President, FDA reform is not a new idea. Like so many of the issues we take on, discussion and debate about FDA reform has been going on for many years. For example, the Edwards Commission was established by charter in 1989 and authorized by then Secretary of Health and Human Service Dr. Louis Sullivan. This task force was formed in response to a growing perception that FDA was in crisis. Serious questions had been raised about the agency's ability to do its job.

After a year of public testimony and study, they published a report in May, 1991—a detailed analysis of the FDA's inner workings. The report concluded that the FDA was an agency in crisis. A large part of the report focused on internal structure, organization and management; the report recommended individual center adopt mission statements and that paper work flow studies be conducted agencywide. As a result of the report, Congress gave FDA substantially more money and staff—but I think that we all now understand that simply providing the FDA more resources does not solve the problems they have at the Agency.

Mr. President, I originally had high hopes for FDA reform this Congress. On March 16, 1995, in a speech at an environmental facility in Virginia announcing phase II of the Reinventing Government initiative, the President even acknowledged that FDA reform was a vital issue. In RE-GO II, the administration issued specific recommendations for the reform of the FDA to be achieved through legislative and regulatory changes. However, I was concerned by the quotation used from the President's rhetoric on the first page of the follow up white paper: "The Food and Drug Administration has made American drugs and medical devices the envy of the world and in demaind all over the world."

I believe that it is this sort of perception that has gotten us to the point where we are today: a regulatory system that no longer has clear boundaries or delineated goals, is anticompetitive, and has an attitude that we must function as "the FDA to the world." Former Commissioner Dr. Charles Edwards put it more appropriately when he said that, "The mission of the FDA is consumer protection. Unfortunately, the FDA has tended to confuse its mission with the power to promote what it deems to be appropriate personal and professional behavior." No matter—the administration's white paper of reforms proved to be more of a red herring than anything else.

The FDA has demonstrated a lack of investment on their part in the private sectors' efforts to bring cutting edge medicine to American patients. Businesses do not engage in activities lightly, especially small business making substantial investments in their own future. The FDA has also indicated an unwillingness to let scientists determine the standard of science, to let doctors freely practice medicine, and to allow patients to be informed about their range of options.

To the FDA, it all seems to be about money. The authorized user fees—or taxes placed on the backs of companies working to provide innovative health care solutions—in the Administration's budget request continue to grow. The Administration also continues to annually request two unauthorized user fees: one would levy a new tax on medical device manufacturers and another would be an important inspection fee. Increasing taxes will not solve the problems that persist at the Food and Drug Administration.

Peter Barton Hutt, former FDA General Counsel, summed this up well in a speech before the Utah International Medical Device Congress in 1993. He stated, "User fees is a false issue. If we do not change the philosophy of the FDA reviewers about the criteria for approving either Section 510(k) notifications or PMA applications, we can triple the number of people in the FDA and not get one additional application approved." It is these sort of changes in philosophy, as well as corrections to the fiscal priorities, that we are seeking at the FDA through our reform efforts. But, unfortunately, Congress cannot legislate attitude.

I also remain unconvinced that new user fees would ever be sunset, even if the application backlog is cleared. I think the discussion we will soon begin in regard to the renegotiation of PDUFA will be revealing on this count. I also have yet to see any proposal that would refund user fees to any company if the product review was not completed within the statutory timeline—this is an agency that wants to function like a business without regard to the rules of business—"Get what you pay for." I don't see why businesses should be expected to tolerate this.

In recent years, there also seems to have been a marked shift from product approval to enforcement at FDA. While there is no clear cut cause for this sea change, the intimidation that has resulted from these actions is great. There is, of course, no way to accurately measure the chilling effect this may be having on relevant industries. But this police state mentality has spilled over into the appropriate regulation of product safety.

Companies are terrified that they will be made the victim of a public campaign in the media. The FDA is reputed for its role in propagating widespread fear of retaliation against any company that would cooperate with Congress in its examination of the FDA's mission and regulatory practices. We have found that a number of individuals and companies fear retribution in the form of delayed FDA product reviews and regulatory discrimination if they should criticize the agency. This fear has led to hesitancy on the part of potential witnesses to provide committees with the testimony that they need in order to make an informed judgment on the policies and practices of the agency.

Commissioner Kessler has argued that the industry perceives issues to be something other than what they actually are, such as the Reference List being viewed as a "black list." While we appreciated the assurances made to the Labor Committee by the Commissioner that such fears are unfounded, I have yet to learn what affirmative steps the FDA has taken to reassure those regulated by the agency that they may feel completely comfortable exercising their right to speak freely to the Congress, without threat of retribution or retaliation from the agency. I have to wonder how many stories continue to go untold, how many problems go unexplored, how many questions remain unanswered.

However, Mr. President, I am pleased to note that a couple of FDA-related problems have been resolved this Congress. One dealt with the untenable restrictions placed on U.S. manufacturers regarding their ability to export products approved for use in other countries, but not yet approved for domestic commerce. Working closely with my colleague from Utah, Senator HATCH, we engaged in a lengthy dialog with ranking minority member of the Labor Committee, Mr. KENNEDY. The result was passage of reform of sections 801 and 802 of the Federal Food, Drug and Cosmetic Act, provisions which govern the import and export of FDA-regulated products. Subsequently, these provisions were signed into law, a major victory for U.S. manufacturers who are no longer obligated to build factories and send jobs and investment capital overseas.

A second major issue that was partially resolved dealt with the ridiculously unscientific Delaney Clause. Countless experts and virtually every former Commissioner have stated the fact that a "zero risk" standard is not only unscientific, but virtually immeasurable. As analytical examinations have improved, science has been able to detect ever-shrinking amounts of trace chemicals in our food supply—excellent science means that minute, formerly undetectable amounts of pesticides and chemicals can be detected, and even though they pose no threat over a human lifetime, would be banned under the unrealistic Delaney scheme. Fortunately, this Congress had the bipartisan wisdom to institute a realistic, scientifically based standard in place of the Delaney Clause as it related to the regulation of pesticides. Congress recognized that in this day and age "zero risk" would come close to meaning "zero food." The Delaney reform signed into law takes us out of the realm of the theory of a health treat, and into a food safety realm that balances health considerations with an abundant, affordable food supply.

And, Mr. President, I am hopeful that we will add this animal drug reform compromise to the list of items we have accomplished this Congress. I understand from my colleague from Kansas that this legislation is the result of a real effort on the part of the FDA, the relevant industry, and her staff. I also understand that the House has taken action on this matter, so there is a realistic chance for these provisions to become law—the type of all that we can all feel good about, a law that balances consumer safety with an appropriate level of Federal regulation.

I also hope that we will have an opportunity to clear the way for one other related measure before Congress adjourns—the biomaterials bill that Senators GORTON, LIEBERMAN, and MCCAIN have been championing for many months. This legislation, which provides reasonable relief to the suppliers of critical raw materials. This relief is necessary to ensure that life-sustaining and life-enhancing devices will remain readily available to American patients.

Mr. President, let me just conclude by saying that the discussion of FDA reform will continue into the next Congress. This is a high priority for many of us, as it is such a high priority for American patients and consumers on a daily basis. We will continue to work hard to define an appropriate role for the Federal Government—for the FDA—in the lives of our citizens.

Mr. HARKIN. Mr. President, I am pleased to that we are today seeing Senate passage of this important legislation. I especially want to thank Senator KASSEBAUM for her efforts in working out the details of this consensus bill and in arranging for its passage

as a freestanding measure. I also want to thank Senator KENNEDY for his cooperation and efforts in clearing the bill for passage.

I am proud to be an original cosponsor of the legislation. It has been very gratifying to have been a part of the process of reaching agreement on the provisions of this bill among representatives of the animal drug industry, livestock and poultry producer organizations, consumers and the Food and Drug Administration. In particular, I would like to commend Dr. Stephen Sundlof, Director of the Center for Veterinary Medicine at FDA for his hard work and cooperation in reaching consensus on this bill. This has been an exemplary effort in reaching a commonsense balance between the need for adequate regulation and the practical realities of livestock and poultry production.

The bill does not in any way weaken the protections for human health contained in current law pertaining to animal drugs. The bill does, however, streamline the animal drug approval process, primarily by removing unnecessary and duplicative testing and investigation requirements found in current law. By reducing unnecessary requirements in the approval process, the approval of new animal drugs will become less costly and time consuming. That is very important, since the livestock and poultry industries are facing a near crisis caused by the lack of approved new drugs. For example, there has been only one new drug approved for use in swine since 1990, and that drug cannot be marketed as a practical matter until this legislation passes.

The bill also contains a much needed resolution of the problems associated with veterinary oversight in dispensing of drugs for use in livestock and poultry feeds.

This legislation is a huge step forward in improving FDA's animal drug approval process and a real victory for livestock and poultry producers, consumers and producers of animal drugs.

Mr. FRIST. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill appear at this point in the RECORD.

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

The amendment (No. 5401) was agreed to.

The bill (S. 773), as amended, was deemed read for a third time and passed, as follows:

S. 773

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360b(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant;

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)) , as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P-0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 US.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) Upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug.".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgment from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or

containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless —

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i).".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i), the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate

regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.".

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

UNANIMOUS-CONSENT AGREEMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the previous order be amended so that the Senate stands in adjournment until 9:30 tomorrow morning and the routine morning requests be deemed agreed to.

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

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in adjournment as under the previous order.

There being no objection, the Senate, at 7:36 p.m., adjourned until Wednesday, September 25, 1996, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 24, 1996:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. NAVY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

UNRESTRICTED LINE OFFICER

To be captain

CHRISTOPHER J. REMSHAK, x...

HOUSE OF REPRESENTATIVES—*Tuesday, September 24, 1996*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mrs. VUCANOVICH].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 24, 1996.

I hereby designate the Honorable BARBARA F. VUCANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. McDevitt, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 2101. An act to provide educational assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1507) "An Act to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes."

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER] for 5 minutes.

COMSTOCK ACT STILL ON THE BOOKS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take this 5 minutes to talk about something I hoped we would have been able to correct on corrections day, but we have not quite gotten to it yet. Maybe there is still time.

There was in the past century a man named Mr. Comstock, and Mr. Comstock was one of these people who decided only he knew what was virtuous and right, and somehow he managed to convince all sorts of people that this was correct. He even in 1873 was able to get on the floor of this House, if you can imagine such a thing, and he stayed here all day long while the Congress was in session. He ran around with a satchel full of books and pictures, and he buttonholed every Member he could find saying, "Look at this, look at this." He wanted a bill passed, which the Congress then passed unanimously, and they named it the Comstock Act after him because he had pushed so very hard for it.

Madam Speaker, what this bill did was allow almost him, himself, to define what would be lewd, what would be filthy, or what would be things that should be banned. He was particularly upset about anything dealing with family planning and also any kind of abortion or contraceptive information.

So, with virtually the entire Congress intimidated, they let this act go through, and, as a consequence, this man went on to really terrorize America, because shortly thereafter, it was not bad enough that the Congress passed this bill, but they then commissioned him as a special agent of the Post Office and vested him with the powers of arrest and the privilege of free transportation so that he could go around and enforce this law unilaterally. He want on to brag later on that he had been responsible for enough criminal convictions of people to fill a 61-coach passenger train. That is really fairly amazing.

And some of the people that he went after were particularly women. He went after Victoria Woodhull, who had tried to run for President even though women could not vote in the 19th century. He went after her on counts of obscenity and every other such thing. He was absolutely obsessed with Margaret Sanger and her husband. He arraigned Margaret Sanger on eight counts of obscenity, and then he went after Margaret Sanger's husband for the same thing.

This is really all very serious because Americans were living with censorship of their mail, druggists lived in constant fear of being prosecuted by this man or people enforcing this law, having anything that looked like a contraceptive, publishers were terrified and had to change an awful lot of the text book and scientific information because, again, this could happen, and George Bernard Shaw said from across the ocean, as he looked at this: "Comstockery is the world's standing joke at the expense of the United States. It confirms the deep-seated conviction of the Old World that America really is a provincial place, and second-rate civilization after all." So, even George Bernard Shaw was watching all of this.

These were serious fines, too. They are now up to $5,000 to $250,000 for a first offense.

Now all of this is historic, and you say, "Why am I taking the time?" The problem is, this body just allowed the Comstock Act to be enforced on the Internet vis-a-vis anything doing with abortion. Previously, the Congress did away the Comstock Act dealing with family planning, thank goodness. But the Comstock Act has never been repealed; it is still on the books. And so, as a consequence, this has been thrown up on the Internet and could be used to bring people into a criminal conviction or arraignment if they decided to discuss anything about the big A word on the Internet.

Now I think when you look at this thing that I am sure more people started out thinking was a real anachronism from the 19th century, the fact that it is still on the books in the 20th century, and then to think that this Congress put it up on the Internet for the 21st century is really, really sad, and I would hope some time before this year is over we could go back and amend the Telecommunications Act, because at the time we are deregulating everything else, to think we are regulating speech about women and making it criminal I think is going the wrong way.

Madam Speaker, I want to take a moment today to recall a shameful chapter in the history of our country and this Congress. I want to talk about Anthony Comstock and the events historians now refer to as "Comstockery," because I think we have to acknowledge that elements of Comstockery are all too present today.

Anthony Comstock was a religious fanatic who spent his life in a personal crusade for moral purity—as defined, of course, by himself. This crusade resulted in the arrest and imprisonment of a multitude of Americans

whose only crime was to exercise their constitutional right of free speech in ways that offended Anthony Comstock. Women seemed to particularly offend Anthony Comstock, most particularly women who believed in the right to plan their families through the use of contraceptives, or in the right of women to engage in discussions and debate about matters involving sexuality, including contraception and abortion.

For example, on November 3, 1872, Mr. Comstock brought about the arrest, on charges of obscenity, of two feminists, Victoria Woodhull and Tennessee Claflin, because they published a story in their newspaper about the alleged infidelity of Henry Ward Beecher, a clergyman. Comstock went after Margaret Sanger in 1914, causing her arraignment on eight counts of obscenity for publishing newspaper articles on birth control. He obtained a conviction against Margaret Sanger's husband, William Sanger, in 1915 for selling a single copy of a pamphlet on birth control entitled "Family Limitation."

Anthony Comstock, of course, could not conduct his fanatic crusade singlehandedly. His crusade was empowered by the Congress of the United States, which allowed him onto the floor of the House in January 1873, where he remained nearly all day. Carrying a satchel full of books and pictures he claimed were pornographic, he showed them to every Member of Congress he could buttonhole, and lobbied for a bill that would give him the legal authority to carry on his campaign of persecution and censorship in the name of fighting obscenity. One biographer notes that tears flowed from his eyes as he addressed Congress, begging for a law to stop the "hydra-headed monster" of vice.

The Congress, unfortunately, soon obliged Mr. Comstock, passing what is known as the Comstock Act. This act makes it a crime to advertise or mail not only "every lewd, lascivious, or filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character," but also any information "for preventing contraception or producing abortion." Congress passed this law with virtually no discussion, acting by unanimous consent in the Senate and under suspension of the rules in the House.

The Committee on Appropriations then set aside several thousand dollars for a special agent to carry out the Comstock Act, and on March 6, 1873, 1 day before his 29th birthday, Anthony Comstock was commissioned as a special agent of the post office, vested with powers of arrest and the privilege of free transportation on all mail lines so that he could roam the country arresting and prosecuting those who dared to send through the mails any information about contraception or abortion, or anything that Comstock deemed to be lewd or indecent.

As a result of Comstock's crusade, publishers were forced to censor their scientific and physiological works, druggists were punished for giving out information about contraception, and average Americans had to live with censorship of their mail, and without access to reliable information about contraception. Two years before this death in 1915, Comstock bragged that he had been responsible for the criminal conviction of enough people to fill a 61-coach passenger train.

George Bernard Shaw assessed this terrible series of events in 1905, saying, Comstockery is the world's standing joke at the expense of the United States. It confirms the deep-seated conviction of the Old World that America is a provincial place, a second-rate civilization after all.

Although its reach has been somewhat curtailed by the courts based upon first amendment principles, the Comstock Act remains on our books today. In 1971, Congress deleted the prohibition on birth control; but the prohibition on information about abortion remains, and the maximum fine was increased in 1994 from $5,000 to $250,000 for a first offense.

Comstockery, unfortunately, is not just a shameful part of our past. Comstockery has been given a new lease on life by this Congress.

The Telecommunications Act passed this year extended the Comstock Act's prohibitions to anyone who uses an interactive computer service. This Congress, therefore, revived Comstockery by making it a crime to use the Internet to provide or receive information which directly or indirectly tells where, how, of whom, or by what means an abortion may be obtained. A broader gag rule is hard to imagine. It could criminalize:

An Internet posting of the referral directory of your local medical society, or the yellow pages of the telephone directory;

A telemedicine consultation between two doctors who are conferring about a patient who may need an abortion to save her life; or

Uploading or downloading medical journal articles about RU–486, or about safe abortion techniques.

I have introduced legislation to repeal the abortion-related speech provisions of the Comstock Act, but unfortunately, the leadership of the Judiciary Committee and of the Congress has refused to move this bill. So Comstockery remains alive and well, and until the Congress is motivated to renounce Comstockery once and for all, I fear that women will pay a disproportionate share of the price, with the dark shadow of Anthony Comstock hanging over our health-related speech on critical topics such as abortion.

And Comstockery seems to be enjoying a revival in other ways, as well. Efforts to impose gag rules on doctors, punitive measures designed to make it harder for women to get access to information and services relating to contraception and abortion, laws that would allow the Anthony Comstocks of today to arrest and jail doctors who perform an abortion procedure that in their medical judgment is the safest to preserve the health and future fertility of their patients—all this is the Comstockery of today.

It is only President Clinton's veto of H.R. 1833 that stops us from seeing, on the evening news, the chilling image of medical doctors going in handcuffs to criminal trial for exercising their best medical judgment for women who wanted pregnancies have gone terribly wrong.

Republican control of the Congress has brought us more than 50 votes on abortion. Every imaginable form of Comstockery is represented in this array of antichoice measures.

Anthony Comstock's crusade against free speech and reproductive choice represents one of the worst chapters of our history. The last thing this country needs or wants is a bridge to the past represented by Comstockery. Suppression of free speech, suppression of reproductive choice, is an aberration from genuine American values.

As the Anthony Comstocks of today patrol the Halls of this Congress seeking to suppress free speech and reproductive choice in the name of morality, or family values, or whatever high-sounding purpose they may invoke, it is incumbent upon the Congress to ensure that no form of the Comstock Act is ever again enacted, and that no special agent is ever again commissioned to roam the land, persecuting Americans in the name of morality or family values.

FAMILY QUALITY OF LIFE ADVISORY COMMITTEE—ASSESSMENT OF EFFORTS IN THE 104TH CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Virginia [Mr. WOLF] is recognized during morning business for 5 minutes.

Mr. WOLF. Mr. Speaker, I come to the House floor this morning in my capacity as the chairman of the Family Quality of Life Advisory Committee to submit for the RECORD my assessment of the efforts during the 104th Congress to make the House more family friendly which I request be inserted in the RECORD.

While some progress toward the goal of making the Congress more family friendly for Members, for their families, and for the staff has been made, it is probably fair to say that this body may never truly become a family friendly place to work.

Still, I believe that it is important to continue the efforts. Rolled votes, firmer and more reliable legislative schedules, earlier end times on getaway days and efforts to conduct most legislative business in the Tuesday-Wednesday-Thursday window have helped some. Much more needs to be done.

As I step down as chairman, I urge the leadership to continue this effort and appoint as the next chairman someone who comes from a different perspective, someone, perhaps, whose district is more remote from the Capitol who commutes home on weekends to be in the district and with his or her family, someone with younger children living at home, someone who will continue to strive for progress in this area but who sees things through different eyes.

Madam Speaker, I want to take this opportunity to share my thoughts on family friendly efforts in the House and my hopes for such efforts in the days ahead.

At the conclusion of the 104th Congress, I will end my service as chairman of the Family Quality of Life Advisory Committee. It has been an honor and privilege to serve on this Committee, but it is appropriate that a new

chairman be named to continue efforts in the 105th Congress. To provide long-range balance, it is my hope that the next Family Quality of Life Advisory Committee chairman brings a perspective different from my own—preferably someone with young children who lives with his or her family in the congressional district, located beyond the Washington metropolitan area. The new chairman should serve as an ombudsman for the House, push for further family friendly initiatives, and be willing to challenge the House leadership on both sides of the aisle on family friendly matters.

In assessing family friendly efforts in the 104th Congress, simply put, this Congress has been extremely difficult for many Members, staff and families. Both sessions have been marked by long days and nights, contentious debate, and ambitious legislative agendas. Our efforts to enact broad reforms and sweeping initiatives have exacted a significant toll on far too many of our colleagues, staff, and on the families. I know many who have struggled greatly under the enormous burdens imposed by the House schedule.

The House leadership did try to respond to the needs of Members, staff and families by adopting some reforms and improvements in the House schedule gleaned from a survey the committee conducted of Members and staff. But the House is not family friendly. The House began adhering where possible to a published schedule, starting sessions earlier in the morning, rolling votes, ending sessions earlier on get-away Fridays, and instituting a Tuesday–Thursday schedule for floor business when possible. There were good intentions at the outset and they helped. However, much more is needed.

At times it seems to be an impossible task in trying to balance the needs of Members anxious to conclude legislative business at a reasonable time most days except Wednesday to allow them to be with family members in the metropolitan Washington area with the needs of Members eager to return to their more distant districts at the end of the legislative work week. But it is a challenge we must address. Some Members prefer the House to conclude legislative business earlier in the evening during the week to allow them the opportunity to have dinner with their family, attend PTA meetings, spend time with their sons or daughters, or simply relax. For these Members, the late sessions make it nearly impossible for them to go home to spend time with their families here and still attend to needs in their own districts when the House is not in session.

Other Members whose families live in their districts want the House to compress its legislative sessions, maintaining a Tuesday-Thursday work schedule and working late into the evening if necessary. These Members prefer longer legislative sessions so they may spend additional time when they go back to their districts with their families and constituents. I recognize the difficulties in attempting to meet these conflicting needs, but we must make every effort to be fair and balanced and accommodate the needs of all Members as much as possible.

My own personal view is that perhaps a truly family friendly Congress may not be possible. Maybe we can never balance the legislative business of the Nation against the individual, personal needs of Members, staff, and families. Still, I do know that we must continue working toward that goal. We will either get better or get worse. Things never stay the same.

We must remain committed to making Congress a more family friendly place, one which enables Members to be successful Representatives as well as successful spouses, fathers and mothers. We owe this effort to ourselves, our staffs, our families, and those who would aspire to follow us to Capitol Hill. If we give up on efforts to establish a more family friendly Congress, we essentially concede that on Capitol Hill, one can only be successful in either his or her professional or personal life but not both. What kind of legislators, spouses, fathers or mothers would we then become? Truly, when our course has been run, the only place each of us will really be missed is in our family. Let's not throw in the towel on efforts to successfully meet both professional and personal needs.

Success in establishing a more family friendly working environment requires a strong commitment from House leadership on both sides of the aisle. Members—especially newer Members—need to see their leaders are committed to having the House family friendly.

While leadership on both sides of the aisle must lead the way in our family friendly efforts, all Members have a responsibility to further these efforts. Where possible, all Members should work to focus floor debate and not waste time, and drag out matters beyond a reasonable point to no useful end. The House, Members, and staff should not be held hostage to the whims of Members who would force everyone to stay in session late to debate issues whose outcome is a foregone conclusion. Family friendly is a responsibility not just of the leadership but of all Members.

Of course, Members understand that as legislators, we are in an unpredictable business. There will be times when Congress must remain in session to debate critical issues. Crisis government should not, however, be the standard for doing business on Capitol Hill.

At both political conventions this summer, both parties offered strong profamily platforms and policies. I believe it is vital that the espoused profamily views represent the true positions of the parties. It is important that the parties not only talk the profamily talk but that they also walk the profamily walk by living a relatively normal life. If we are so busy meeting the needs of the job that we neglect the needs of our families, our views become skewed. Let's not lose our focus and true commitment to family.

Further reforms in House procedures and practices can help. For example, I am not convinced that the House is particularly productive or effective when it works day after day, night after night. Are we as effective as we can be when we debate critical issues late into the night, night after night. These hours are draining for all of us and tiredness increases the level of frustration, hostility and perhaps stubborness.

Let me make a comment here about the staff. Just like the Members around here, the staff have families, too. They have husbands and wives and sons and daughters and moms and dads. Members need to be sensitive to the fact that the staff arrives before the House goes into session in the morning, and they continue to work after we adjourn for the day, no matter how late. If legislative business and the last vote concludes in the early evening, most Members leave. But if there are special orders into the night, the staff stays. That can make for 14-plus hour days and 2 or 3 of these days in a row takes a tremendous toll on the staff. The floor staff probably does not use the term family friendly to describe their work environment.

Many Members have suggested additional changes in House practices that merit further consideration and/or adoption. Some of these changes include: Start legislative sessions earlier in the day; end legislative sessions at a reasonable hour every day while setting one day each week for a late session; conclude voting on the designated late night by 8 or 9 p.m. and only allow debate on amendments to take place past this hour.

Also, roll or cluster roll call votes; approve modified closed rules to expedite debate; set time limits on debate on amendments; establish and adhere to a set schedule; adjourn before 7 p.m. at least one night a week or more frequently if the House starts work earlier.

Finally, provide more time for district work; eliminate 1 minute speeches at the start of the day in which the House is expected to be in session beyond 9 p.m.; and eliminate special orders when the House session extends beyond 9 p.m.

And, of course, some of these reforms may need to be set aside at the end of a session or when legislative demands dictate. But these reforms should be the rule—not the exception. And when we violate them, we should do so only for very good reasons.

I hope we continue to make family friendly reforms. It will help us be better legislators, help us be better husbands or wives and better parents. While change is difficult, let's not abandon this critical effort.

IN HONOR OF THE FIFTH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF ARMENIA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 5 minutes.

Mr. PALLONE. Madam Speaker, I rise today to pay tribute to the fifth anniversary of the independence of the Armenian Republic, which was celebrated this past Saturday, September 21.

Madam Speaker, the story of the Armenian people, one of the world's most ancient and enduring cultures, is an inspiring saga of courage, devotion to family and nation, and, most dramatically, the triumph over adversity and tragedy. Earlier in this century, in one of history's most horrible crimes against humanity, 1.5 million Armenian men, women, and children were slaughtered by the Ottoman Turkish Empire. Every April, Members of this

House join in commemoration of the Armenian genocide. We can never relent, and we will not relent, in out efforts to remind the world that this tragedy is a historic fact—despite the efforts of so-called revisionists to deny the truth—and to make sure that our Nation, the world community, and especially the Turkish nation, come to terms with and appropriately commemorate this historic fact.

But today, Madam Speaker, I want to talk about a much more joyous occasion in the great history of the Armenian people. The collapse of the Soviet Union in 1991 allowed the Armenian people to finally achieve a true sense of nationhood, to create a society where their language, culture, religion, and other institutions would be able to prosper. The progress made in 5 short years by the Republic of Armenia has been an inspiration—not only for the sons and daughters of the Diaspora, but for all Americans who support the cause of freedom. Having survived the genocide, and living for decades under the yoke of the Soviet Union, the brave people of Armenia have endeavored to build a free and proud nation, based on the principles of democracy and a market economy.

Madam Speaker, as they have for so much of their history, the Armenian people have accomplished all this against daunting odds. The tiny, landlocked Republic of Armenia is surrounded by hostile neighbors who have imposed blockades that have halted the delivery of basic necessities. Yet, independent Armenia continues to persevere and even prosper. While democracy has proven to be elusive in much of the former Soviet bloc, democratic Armenia held parliamentary elections last year and will hold nationwide presidential elections later this year.

As the founder and cochairman, with the gentleman from Illinois [Mr. PORTER], of the Congressional Caucus on Armenia Issues, I consider United States-Armenia relations to be one of our key foreign policy objectives. Support for Armenia is in our practical interests, helping to support a stable nation in a strategically important and often unstable part of the world. Standing by Armenia is also consistent with America's calling to support democracy and human rights, and to defend free peoples throughout the world. In the ongoing debate over the foreign operations bill for fiscal year 1997, congressional friends of Armenia are working, on a bipartisan basis, to provide humanitarian and development aid for Armenia while trying to limit assistance to Turkey and block any funds from going to Azerbaijan until those countries lift their blockades of Armenia.

Madam Speaker, I want to emphasize that the people of Armenia want good relations with their neighbors and the entire would community, and I believe the moral, political and economic power of the United States can go a long way toward helping Armenia achieve that goal.

Madam Speaker, the Republic of Armenia—and friends of Armenia here in the United States—have had much to celebrate recently. Earlier this year, a beautiful new embassy building was opened. It was a great honor and privilege for me to be there for the dedication ceremony, joined by colleagues from this House and the Senate, Armenian political and religious leaders, and members of the community to help inaugurate a real, functioning Embassy, located in the very heart of the Embassy Row area, side by side with many of the world's other great nations. The existence of this Embassy is a tribute to the efforts and dedication of the Armenian-American community—just as the very existence to the Republic of Armenia as an independent nation and state is a triumph of the indomitable will of the people of Armenia to overcome every imaginable obstacle and disadvantage to create a new democracy from one of the world's most ancient nations.

Madam Speaker, I hope that by the time we mark the 10th anniversary of the Republic of Armenia, we can look back with pride on building peace in prosperity in the entire Transcaucasus region, so that the people of Armenia and their neighbors can enjoy a stable, hopeful future. I hope that the Republics of Turkey and Azerbaijan will have responded positively to Armenia's offer to normalize relations, exchanging diplomats, and allowing the free flow of goods and people across their borders. I hope that, with the active participation of the United States, we will have resolved the question of Nagorno-Karabagh, the Armenian enclave located within Azeri borders, to guarantee the security and self-determination of the people of Karabagh. I hope that the effort to tap the vast Caspian Sea oil reserves will finally culminate in the construction of a pipeline carrying the oil west to Mediterranean ports through Azerbaijan, Armenia, and Turkey—thereby further linking those neighbors in mutually beneficial security and economic ties.

While I prefer to stress the positive, in the real world of 1996 I will work with my fellow supporters of Armenia to make sure that turkey and Azerbaijan are not rewarded for their intransigence towards their neighbor Armenia. We must continue to enforce section 907, banning direct United States Government aid to Azerbaijan, until that country lifts its blockade of Armenia. We must continue to enforce the Humanitarian Aid Corridor Act, which would cut off aid to Turkey for its blockade of Armenia. We must guard against any tilt by this administration, or any future administration, toward the Turkish and Azeri sides.

Madam Speaker, this anniversary is being marked by a series of events. Last weekend, the Armenian National Committee of America's New Jersey and New York chapters held a series of events the greater New York area, including a concert and a picnic. On Saturday, September 21, the Diocese of the Armenian Church of America held a formal banquet and a cultural program in New York. Tonight, Tuesday, September 24, the Armenian Assembly of America, in conjunction with the Congressional Causus on Armenian Issues, will hold a reception over in the Senate. And on Friday, the Ambassador of Armenia to the United States, His Excellency Mr. Rouben Shaugarian, will host a reception at the Embassy.

Madam Speaker, I hope to see some of my colleagues at these upcoming events, whether they have been a longstanding friend of Armenia or are merely interested in learning about his new—and yet most ancient—country. It is an honor for me to pay tribute to the fifth anniversary of Armenia's Independence, and I look forward to commemorating many more anniversaries in the future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess until 12 noon.

Accordingly (at 10 o'clock and 44 minutes p.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 pro tempore (Ms. GREENE of Utah) at 12 noon.

PRAYER

Bishop Felton May, Washington Episcopal Area United Methodist Church, offered the following prayer:

Almighty God, You created us in Your image. Grant us grace fearlessly to contend against evil, and to make no peace with oppression. And, that we may reverently use our freedom, help us to employ it in the fostering of reconciliation, liberation, and justice.

Grant us sincerity, with golden morals and values, that we may persistently seek the things that endure, refusing those which perish, and grow ever richer in that love which is the life of all people. Bless this House of Representatives and all the leaders of this Nation; as we continue to be good and faithful stewards of the resources of this world which You created and called good. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the

last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BALLENGER. Madam Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BALLENGER. Madam 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, rule I, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side of the aisle.

RELEASE FREEH'S MEMO REGARDING THE WAR ON DRUGS

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

Mr. BALLENGER. Madam Speaker, last month, Newsweek magazine ran a story on the politics of the war on drugs. Here is a quote from the article: "Although cocaine is still a major problem and heroin is getting worse, it is simply beyond argument that Bill Clinton has failed to use the powers of his office to lead the war on drugs."

The articles goes on to report that 18 months ago, FBI Director Louis Freeh wrote a "scathing" memo detailing how illegal drugs were flowing into America like an all-conquering army. Freeh reportedly said there was no true leadership in the war on drugs.

Madam Speaker, what else was in that memo? What could have motivated Bill Clinton's hand-picked FBI director to make these revelations? And why hasn't this memo been released?

The Clinton administration should release the Freeh memo, and while they are at it, they can explain to the American people why they have done so very little to stop the flow of these drugs when they knew about it over 18 months ago.

CALLING FOR REPORT ON SPEAKER GINGRICH TO BE MADE PUBLIC

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

Mr. VOLKMER. Madam Speaker, here we continue on; it has been over a month. Mr. Cole has filed his report with the Committee on Standards of Official Conduct on Speaker GINGRICH. This is a huge dark cloud that hangs over the House.

POINT OF ORDER

Mr. LINDER. Madam Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman from Georgia will state his point of order.

Mr. LINDER. The gentleman in the well is referring to matters before the Committee on Standards of Official Conduct, which is explicitly against the rules of the House.

The SPEAKER pro tempore. The Chair sustains the point of order and directs the gentleman from Missouri [Mr. VOLKMER] to proceed in order.

Mr. VOLKMER. The public media has now taken up the call, along with myself and other Members of this House who are asking that that report be made public. It cost the taxpayers——

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Madam Speaker, it may be that the gentleman does not understand the English language, but I thought the Chair just sustained a point of order and instructed him not to refer to matters before the Committee on Standards of Official Conduct but to continue in order, and for him to continue referring to these matters is out of order.

The SPEAKER pro tempore. The Chair once again sustains the point of order of the gentleman from Georgia [Mr. LINDER]. The gentleman from Missouri [Mr. VOLKMER] is not speaking in order, and the Chair again directs the gentleman from Missouri to proceed in order in accordance with the rules of the House.

Mr. VOLKMER. Madam Speaker, it is time and the time is now that the chairperson of the Committee on Standards of Official Conduct, NANCY "Stonewall" JOHNSON, release that report on Speaker GINGRICH so that we can all know what is in it. I do not know what is in it, whether it is good or bad, but we are entitled to know. Every Member of this House, the public, the press is entitled to know what is in that report.

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Madam Speaker, it does not seem like anyone should have to remind someone three times in a 1-minute speech that he is abusing the rules of the House, but that is the point I am raising.

The SPEAKER pro tempore. The Chair will inform the gentleman from Missouri [Mr. VOLKMER] that the Chair sustains the point of order of the gentleman from Georgia. The gentleman from Missouri is not, under the rules of the House, to make references to matters currently under review before the Committee on Standards of Official Conduct or to members of that committee, as the gentleman from Missouri well knows.

The gentleman from Missouri [Mr. VOLKMER] has 20 seconds remaining.

Mr. VOLKMER. Madam Speaker, it is very apparent, I think, to everybody out there that is seeing what is happening here, that Members of the House who are calling for this report to be made public are attempted to be gagged.

The SPEAKER pro tempore. The time of the gentleman from Missouri has expired.

SUPPORT NATIONAL POLLUTION PREVENTION WEEK

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Madam Speaker, my topic is quite different. I am pleased to lend my support to National Pollution Prevention Week, recognized across the country to promote the most environmentally responsible management approach of pollution prevention, reducing pollution at the source before it starts. Pollution prevention can increase industrial efficiency and commercial competitiveness, improve the health and safety of workers in the workplace, while simultaneously preserving valuable resources and protecting the environment.

In my State of Maryland we have a very active State pollution prevention program that is helping to protect the Chesapeake Bay, the Anacostia and Potomac Rivers, and many other natural resource treasures. This is the key to the environmental health of my district. Maryland's Department of the Environment, numerous private sector programs, along with other Federal and local programs in the State, are working actively with the National Pollution Prevention Round Table, the largest association of State and local

pollution prevention programs in the United States, to produce and promote a source reduction approach to environmental protection.

I ask all of us to recognize the importance of meeting those challenges for a healthy community.

THE LEGACY OF TOM BEVILL

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

Mr. POSHARD. Madam Speaker, regrettably I missed the special order on the gentleman from Alabama, TOM BEVILL, one of our dear colleagues in this House, last week, and I wanted to make sure that I took this 1 minute to congratulate Mr. BEVILL on his years of work in this House.

When I came here as a freshman nearly 8 years ago, I had a terrific problem in the rural district which I represented. We had a levee along the Mississippi River that had been greatly compromised. It was well over 60 years old. The local folks in the poor part of the district had no funds to really repair that levee. As a young freshman legislator I went to Mr. BEVILL and I said: "TOM, here is the problem."

He helped me, as chairman of his committee. We went in, repaired that levee with the Corps of Engineers, and less than 2 years later a gigantic flood along the river broke through levees all up and down the Mississippi, threatened lives, threatened property, but that levee stayed, and it protected thousands of acres of farmland and thousands of homes for people who would have had no protection otherwise.

That is the legacy of TOM BEVILL to this institution. He has helped us all. Regrettably he is going to be leaving here. I wish him well in his retirement because he has made a great, great difference in the quality of life of many people across this country that have needed his help.

SHAME ON THE WASHINGTON REDSKINS

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

Mr. TRAFICANT. Madam Speaker, the Washington Redskins, one of the most storied teams in American history: Sammy Baugh, Jurgensen, Huff, Taylor, Theismann, Riggins, Monk, Jacoby, on and on. The NFL franchise that represents the Nation's Capital, the NFL franchise that represents the great courage, tenacity of our great Native Americans, now is known as the team that has made Nissan their official vehicle. Beam me up. The Washington Redskins now ride a war horse made in Japan.

Unbelievable.

Now tell me what is wrong with Ford; how about Chevy, Jeep, Chrysler? Do they not matter to America anymore?

I think the Washington Redskins will realize one thing: No wonder the American people consider the Dallas Cowboys America's team.

Shame, Washington Redskins, shame. My colleagues, this is not meant to be a joke. I yield back the balance of all the profits going to Japan from products being bought by American people and advertised by American celebrities.

MOURNING THE TRAGIC PASSING OF JOHN DURICKA

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

Mr. DREIER. Madam Speaker, it saddens me to inform the House of the passing of a great American and someone who worked long and hard in this Capitol. His name will not be known to everyone, but when my colleagues see John Duricka they automatically recognize him, and yesterday morning he tragically passed away.

He had a 30-year career with the Associated Press. He had lived in southern California for a number of years and worked for the San Gabriel Valley Tribune, and that was up until 1966 when he joined the Associated Press.

Madam Speaker, today's Washington Post in the obituary section describes him as a keen-eyed photographer who played a great role in getting still photographers into all kinds of meetings, in fact into this Chamber the day that Jim Wright announced his resignation from right here in this well.

He was a great friend to me. His brother was a photographer at the San Gabriel Valley Tribune in California, and tragically I had the opportunity to deliver the eulogy at his funeral when he was killed in a tragic plane crash a few years back.

But John Duricka was a great man, and he took wonderful photographs, and he is one of those institutions in this Capitol who will be sorely missed.

CALLING FOR ISTEA'S REAUTHORIZATION

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

Mr. BLUMENAUER. Madam Speaker, as we in Congress prepare to adjourn the 104th session, and we turn our attention to the next session and its business, we need to focus on the reauthorization of ISTEA. Citizens and local governments around the country are calling for the ISTEA reauthorization with enhancements programs and flexibility intact. Representatives from 118 cities asked me earlier this month to deliver to my colleagues a message that is signed, an open letter to this Congress.

□ 1215

We need ISTEA and the money that it brings. But more important, to deal with the problems of our increasingly mobile populations, is the flexibility that that legislation entails. More important than money is the local planning framework that is involved. And most important of all is the public involvement that is entailed.

Our citizens, our constituents, know what they need. If we engage them in the process of planning for our future, they will respond with innovation and nontraditional solutions. We in Congress talk a lot about empowerment and doing more with less. ISTEA is a chance to deliver on that promise.

RELEASE OF WHATEVER IT IS PRODUCED BY OUTSIDE COUNSEL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, editorials all over America are joining those of us who keep calling for the release of whatever it is that was produced by the outside counsel for over a half a million dollars of tax money on Speaker GINGRICH's violations of the ethics rules.

Let me read to the Members what the Albuquerque Journal said, because this is one of the papers in my Rocky Mountain region. They said, what is good for the goose is good for the Gingrich. The Republicans cannot have it both ways. They have to play this game by the rules they established in the Wright case, and they should release the report.

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore (Ms. GREENE of Utah). the gentleman from Georgia will state his point of order.

Mr. LINDER. Madam Speaker, it is my understanding last week that the Chair ruled that even if newspapers make references to matters before the Committee on Standards, it is inappropriate under House rules to bring those matters to the floor of the House. It is entirely acceptable for the gentlewoman from Colorado to speak on this issue as much as she wants outside the House of this Congress. But on this floor, it is against the rules.

The SPEAKER pro tempore. The Chair sustains the point of order of the gentleman from Georgia, and directs the gentlewoman from Colorado [Mrs. SCHROEDER] to proceed in order in accordance with the rules of the House.

Mrs. SCHROEDER. Madam Speaker, I find it amazing that we cannot come

to this House floor and discuss the chief officer of this House and different violations that have been alleged of this chief officer that has put a cloud over this House. I find that astounding. I have never, never in my 24 years seen these kinds of rules enforced on the House floor, and I am stunned that the leadership seems so insistent on gagging us in this body. No wonder this body has created such cynicism.

CONCERNING RELEASE OF REPORT PAID FOR BY TAXPAYERS' MONEY

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

Mr. WAXMAN. Madam Speaker, I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Madam Speaker, I thank the gentleman from California for yielding to me.

Basically what I was trying to do is, I had a whole list of editorials that have been written across the country dealing with this report that we have been trying to get released for over a month.

My understanding of the ruling of the Chair is that we cannot even talk about what the editorial said. I find that fairly astonishing, that they tell us we can go outside and talk about it, but we cannot talk about it on the floor.

Mr. WAXMAN. Madam Speaker, if I can reclaim my time, I would mention to the gentlewoman and others that the so-called Committee on Government Reform and Oversight has been issuing reports scathingly attacking the administration without any evidence. They keep on saying, "The report says that," and that is their justification for their accusations, both on the Travel Office, and they are going to try to do something on the FBI files, a very, very partisan hatchet job.

Those reports are being issued without evidence, but a report that we have paid for with taxpayers' money we are not allowed to see, and the public is being kept from having those reports available to us.

Mrs. SCHROEDER. I thank the gentleman from California.

The SPEAKER pro tempore. The gentleman's time has expired.

POINT OF ORDER

Mr. LINDER. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LINDER. The gentleman's time has expired, but the point of order is the same one, that he is referring to matters against the rules of the House.

The SPEAKER pro tempore. The Chair will sustain the point of order, and requests that all Members show respect for and abide by the rules of the House.

Mr. WAXMAN. Madam Speaker, I would like to be heard on the point of order before the Speaker rules on the point of order.

The SPEAKER pro tempore. The Chair has already ruled on the point of order.

Mr. WAXMAN. I guess that is it: The sentence first, and then we will have the trial later.

PARLIAMENTARY INQUIRY

The SPEAKER pro tempore. Does the gentleman from California [Mr. WAXMAN] have a parliamentary inquiry he wishes to make?

Mr. WAXMAN. I do, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAXMAN. As I understand it, Madam Speaker, the House of Representatives has spent around half a million, maybe more, to ask for a report to be submitted to our committees. Why can that not be made public, and why is that inappropriate to say on the House floor?

The SPEAKER pro tempore. Prior rulings of the Speaker have sustained the point of order in this and prior Congresses that press accounts relating to matters currently before the Standards of Official Conduct Committee are not a proper subject for debate on the floor. That is why the gentleman from Georgia's point of order was sustained.

Mr. WAXMAN. Further parliamentary inquiry, Madam Speaker.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WAXMAN. There is a ruling that we as Members of the House of Representatives may not speak in protest over the committee's refusal to make this report public?

The SPEAKER pro tempore. The duty of the Chair is to enforce the rules of the House as they are written and have been interpreted. The rules of the House, as the Chair has ruled in this and prior Congresses, make it out of order for any Member to refer to any subject currently before the Standards Committee, whether through the Members' own words, or through the recitation of words printed in any other medium outside the floor of this House, except when a question of privilege is pending.

The Chair will continue to abide by and enforce the rules of the House.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LINDER. Madam Speaker, pursuant to clause 2, rule IX, I hereby give notice of my intention to offer a question of privileges of the House.

The SPEAKER pro tempore. The gentleman will state the form of the resolution.

Mr. LINDER. Madam Speaker:

Whereas, a complaint filed against Representative Gephardt alleges House Rules have been violated by Representative Gephardt's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in other complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Official Conduct is responsible for determining whether Representative Gephardt's financial transactions violated standards of conduct or specific rules of the House of Representatives; and

Whereas, the complaint against Representative Gephardt has been pending before the committee for more than seven months and the integrity of the ethics process and the manner in which Members are disciplined is called into question; and

Whereas, on Friday, September 20, 1996 the ranking Democrat of the Ethics Committee, Representative James McDermott in a public statement suggested that cases pending before the committee in excess of 60 days be referred to an outside counsel; now be it

Resolved that the committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of the charges filed against the Democrat Leader Representative Richard Gephardt.

Resolved that all relevant material presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative schedule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privileges will be made at that later time.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar. The Clerk will call the first bill on the Corrections Calendar.

SMALL BUSINESS REGULATORY RELIEF ACT OF 1996

The Clerk called the bill (H.R. 3153) to amend title 49, United States Code, to exempt from regulation the transportation of certain hazardous materials by vehicles with a gross vehicle weight rating of 10,000 pounds or less.

The Clerk read the bill, as follows:

H.R. 3153

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

SECTION 1. EXEMPTION OF CERTAIN HAZARDOUS MATERIAL TRANSPORTATION FROM REGULATION.

Section 5117 of title 49, United States Code, is amended by redesignating subsections (c) and (d) as subsections (d) and (c), respectively, and by inserting after subsection (b) the following:

"(c) STATUTORY EXEMPTION. This chapter and regulations prescribed under this chapter shall not apply to—

"(1) any vehicle with a gross vehicle weight rating of 10,000 pounds or less transporting a substance or material—

"(A) designated as a hazardous material under this chapter (or the Hazardous Materials Transportation Act) on or before January 1, 1996; and

"(B) for which placarding of a motor vehicle was not required as of January 1, 1996, under regulations prescribed under this chapter (or the Hazardous Materials Transportation Act); and

"(2) any vehicle with a gross vehicle weight rating of 10,000 pounds or less transporting a substance or material designated as a hazardous material under this chapter after January 1, 1996, unless the Secretary determines that the hazardous material poses a significant risk to health and safety or property.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PETRI

Mr. PETRI. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Petri: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Transport Correction Advancement Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Secretary of Transportation is considering, as part of a proposed rulemaking, expanding the exceptions provided for transportation of small quantities of hazardous materials from unnecessary and burdensome regulations;

(2) the Secretary has found that certain businesses, and especially small businesses, carry small quantities of hazardous materials;

(3) small businesses are critical in creating jobs in the United States economy and can be significantly affected by Federal regulations; and

(4) regulatory relief for small businesses transporting relatively small quantities of hazardous materials should be promptly acted on and the Secretary has stated an intention to issue a final rule to provide this regulatory relief by December 31, 1996.

SEC. 3. MATERIALS OF TRADE EXCEPTIONS FROM HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEADLINE FOR ISSUANCE OF FINAL RULE.—Not later than December 31, 1996, the Secretary of Transportation shall issue, under the rulemaking proceeding under docket number HM-200, entitled "Hazardous Materials in Intrastate Transportation", a final rule relating to materials of trade exceptions from chapter 51 of title 49, United States Code, and regulations issued pursuant thereto. The final rule shall substantially address the materials of trade exceptions contained in the proposed rule relating to hazardous materials in intrastate transportation published in the Federal Register on March 20, 1996 (61 Fed. Reg. 11489–11490).

(b) EFFECTIVE DATE.—The final rule issued under subsection (a) shall become effective not later than 90 days after date of publication of the final rule.

(c) TRAINING OF INSPECTORS.—Before the effective date of the final rule issued under subsection (a), the Secretary shall provide sufficient training of inspectors to provide for implementation of the final rule.

SEC. 4. FARM-RELATED EXCEPTIONS FROM HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

Any provision of a final rule relating to intrastate transportation of hazardous materials issued under the rulemaking proceeding under docket number HM-200 that prohibits States from granting exceptions for not-for-hire intrastate transportation by farmers and farm-related service industries shall not take effect with respect to not-for-hire intrastate transportation by farmers and farm-related service industries before the earlier of—

(1) the date of the enactment of a law which authorizes appropriations to carry out chapter 51 of title 49, United States Code, for fiscal year 1998; or

(2) the 180th day following the effective date of the final rule.

Mr. PETRI (during the reading). Madam Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin [Mr. PETRI] and the gentleman from Minnesota [Mr. OBERSTAR] will each control 30 minutes.

The chair recognizes the gentleman from Wisconsin [Mr. PETRI].

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

Madam Speaker, the amendment in the nature of a substitute directs the Secretary of Transportation to issue, under an ongoing rulemaking proceeding, a rule relating to materials of trade exceptions to hazardous materials regulations. This provision was adopted by the Committee on Transportation and Infrastructure on September 12, 1996.

The amendment also provides that any rule extending Federal hazardous materials regulation to intrastate transportation relating to farm vehicles which does not allow for State exceptions, cannot take effect prior to the reauthorization of the Hazardous Materials Program or 180 days after the effective date of the final rule, whichever is earlier.

On March 20, 1996, the Department of Transportation proposed that businesses which carry small amounts of hazardous materials in the course of their business meet reduced regulatory requirements. This proposal is part of a larger rulemaking, known as HM-200, concerning Federal regulation of intrastate transportation—but the materials of trade exception would apply to both intrastate and interstate transportation. DOT has stated its intention to issue a final rule on HM-200 by the end of this year.

However, should that be delayed because other aspects of HM-200 may be controversial, then DOT must at least complete this portion of the rulemaking which can provide sensible relief to small businesses now regulated.

This bill does not interfere in the rulemaking process and it does not prescribe the contents of the final rule. It only directs when that process must be concluded.

I applaud the efforts of the Transportation Department in seeking to provide relief to small businesses through the proposed rule.

Section 4 of the amendment is of great importance to many farming communities and States. Several States which have adopted the Federal hazardous materials rules for transportation within their State have provided for various exceptions for farm vehicles.

If States are preempted from continuing to grant such exceptions in a final rule issued under the pending HM-200 rulemaking, this provision in section 4 of the amendment ensures that the Congress has an adequate opportunity to carefully consider the effects of such a rule and whether legislative action is necessary. I want to note that in this amendment a regulation that prohibits States from granting exceptions means a regulation that prohibits, limits or changes the status quo in current practices or authorities of the States.

I appreciate the cooperation demonstrated by Congressman OBERSTAR, Congressman RAHALL, and, of course, Chairman SHUSTER in fashioning this amendment. Several members of the committee, including Congressman EWING, Congressman POSHARD, and Congressman BARCIA—and well as Congressman BUYER and other members representing rural, farming districts—have been instrumental in bringing to our attention the farm vehicle issue.

I urge the House to approve the amendment and H.R. 3153.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of the amendment in the nature of a substitute to H.R. 3153 offered by the gentleman from Wisconsin, the chairman of the subcommittee.

Again, I want to commend our chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the chairman of the subcommittee, the gentleman from

Wisconsin [Mr. PETRI], for the splendid working relationship we have had throughout this rather complex and at times contentious issue, not contentious among Members, but contentious among those affected by the issue, and to come to a meeting of the minds and an agreement on how to proceed. We have, I think, a very fair and workable and, most importantly, a good piece of policy here.

Madam Speaker, as we proceed with this issue, we have to keep the objective in mind. That is, management of hazardous materials in transportation. Hazardous materials are regulated as they move among the States simply because they are potentially dangerous. Federal involvement is an important element to assure that citizens across the country receive equal treatment and the same level of protection.

The Department of Transportation should not grant exemptions from its standards unless the Department is convinced that the exemption will not reduce the margin of safety.

The substitute amendment before us deals with two exemptions now under consideration by the Department of Transportation. First, the substitute directs DOT to complete expeditiously that part of its HM-200 rulemaking related to hazardous materials of trade. DOT proposes exceptions in response to comments it received on the broader, more controversial intrastate rulemaking.

Many businesses use small quantities of hazardous materials in conducting their principal business. Among those are lawn care companies, pest control companies, swimming pool service companies, and many of those are very small businesses.

□ 1230

They are family owned, they have very few employees, and they present unique cases. It was appropriate for the Department to understand their unique circumstances and undertake to alleviate heavy burdens, while at the same time assuring that public safety will be protected.

The proposed rules would exempt those companies from complying with a limited number of transportation regulations, including training and incident reporting requirements, under controlled conditions. To qualify, a company would have to meet 3 basic criteria. First, the affected materials would include only those normally carried on a motor vehicle in relatively small quantities. The exemption should be limited with respect to both the quantity per package and the total quantity per motor vehicle. Second, to qualify for the exemption, a company would have to use either the manufacturer's original packaging or packaging of equal or greater strength. Third, to qualify, the motor vehicle operator would have to be aware of the materials that are on board and be familiar with the materials of trade regulations. I think that is a fair requirement to impose upon small companies. These regulations are not burdensome. These requirements and exceptions are not serious exceptions from public safety, either.

The chairman's substitute directs DOT to complete action on the proposal in an expeditious fashion. The substitute, though, does not dictate the outcome of DOT's rulemaking. That was very important for me and I think for our side and for the Department, that under the substitute the DOT should have complete discretion in making its final decision as to whether an exemption can be granted without sacrificing safety.

The substitute also addresses the concerns of farmers and farm-related service industries who operate pursuant to State exceptions. The substitute provides that if the final rule for HM-200 relating to intrastate transportation prohibits States from granting exceptions for not-for-hire intrastate transportation by farmers and farm-related service industries, in that circumstance, the rule would not take effect for those entities until either the reauthorization of the HazMat program or until 180 days after the effective date of the final rule, whichever is sooner. That is an important distinction. I had initially proposed that the rule not take effect for 270 days after the initiation of the rulemaking. We now have a compromise that is fair, 180 days after the effective date of the final rule. The practical effect of this language is that it takes the application of the HazMat rulemaking well past planting season next year for farmers and well past the summer season for farmers so that they can continue to operate under existing rules and laws without any changes while the full effect of any change adopted by the Department of Transportation is evaluated by the farming community and while Congress then will have time to more fully consider both the safety implications, the regulatory burden, and, if necessary, take additional legislative action.

So the provision that we are including in this legislation preserves the integrity of the rulemaking process, not prejudging its outcome, allowing it to proceed to completion, but providing a safety valve for those who are either adversely affected by it because they are the operators or those who may be adversely affected by a spill that will cause harm to the environment or to health and safety.

Neither the materials of trade nor the farmers and farm-related services provision predetermines the outcome of DOT's rulemaking. The rulemaking process goes forward including thorough consideration of all relevant comments in support of and in opposition to the proposed exceptions. I think this is a fair outcome.

We have had extensive discussion with Chairman SHUSTER and Chairman PETRI, with the gentleman from West Virginia, Mr. RAHALL, our ranking member on the Subcommittee on Surface Transportation, the gentleman from Illinois, Mr. POSHARD, of our committee, the gentleman from Michigan, Mr. BARCIA, of our committee, and the gentleman from Illinois Mr. EWING, on the Republican side also of our committee. And we have had very good discussion with farmers and farm-related entities who also have a stake in the outcome of this legislation and in the outcome of this rulemaking.

Madam Speaker, I reserve the balance of my time.

Mr. PETRI. Madam Speaker, I yield 5 minutes to the gentleman from Texas [Mr. DELAY], the sponsor of the legislation.

Mr. DELAY. Madam Speaker, I want to commend the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Wisconsin [Mr. PETRI] for working on this bill and understanding how important this bill is to so many people. I also want to thank the gentleman from California [Mr. WAXMAN] along with the gentlewoman from Nevada [Mrs. VUCANOVICH] who are both on the Corrections Day Advisory Group, for helping us work through this legislation.

Madam Speaker, I am very pleased to speak in favor of H.R. 3153, the Small Business Transport Correction Advancement Act. This bill, the product of months of meetings and negotiations and hard work, will provide countless small businesses with much needed commonsense relief from excessive Federal regulations.

The gentleman from California [Mr. CONDIT] and I introduced H.R. 3153 to try to fix what I think is a ridiculous situation where the drivers of small vehicles carrying small quantities of relatively benign substances such as nail polish remover and spray paint are being required to retain complex shipping papers for at least a year, mark containers on a daily basis and undergo training on how to handle these substances.

While DOT's hazardous materials regulations do serve a worthwhile purpose, everyone agrees that they were not intended to cover the transport of a spare can of gasoline in a gardener's pickup truck.

Earlier this year, DOT proposed a materials of trade exception from HazMat regulations for small businesses that transport small quantities of hazardous materials as part of their business. While we are pleased to see that the Department shares our concern that small businesses are being unnecessarily heavily regulated, we were disturbed that this proposal was attached to a much larger and more

controversial proposed rule dealing with intrastate regulation which has been on the docket since 1987.

Based on DOT's assertion that it expects to issue its final rule on December 31 of this year, H.R. 3153 simply acts as an insurance policy, setting December 31 as the deadline by which the Department must issue a final rule establishing a materials of trade exception.

If DOT succeeds in issuing a final rule by this date, then this bill will not be necessary. But if the bigger issue of intrastate regulation requires additional discussion, then at least small businesses will not be held hostage to that separate debate.

Currently this bill has 58 cosponsors and is a bipartisan bill. Further, a diverse coalition of over 20 organizations, ranging from the National Federation of Independent Business and the National Restaurant Association to the Society of American Florists and Walt Disney, have come together in support of this bill.

H.R. 3153 will help roofers, painters, plumbers, housekeepers and cosmetic supply salespeople, among many others. I urge my colleagues to support this bill as a prime example of how this Congress is trying to provide commonsense relief to the small businesses of this country, which are also the biggest job creators in this country.

Mr. OBERSTAR. Madam Speaker, I yield myself 2 minutes, and I yield to the gentleman from Illinois [Mr. POSHARD] for purposes of a colloquy.

Mr. POSHARD. Madam Speaker, H.R. 3153 has been amended to delay implementation of the Department of Transportation final rule under docket No. HM-200 for not-for-hire intrastate transportation by farmers and farm-related service industries, if the final rule does not allow States to grant exceptions.

Is it the understanding of the gentleman that this rulemaking, as explained in notice of proposed rulemaking in the March 20, 1996 Federal Register, will allow for a 1-year transition period from the date of publication of the rule?

Mr. OBERSTAR. That is my understanding and the gentleman has stated the issue correctly.

Mr. POSHARD. Further, it is the understanding of the gentleman that the amendment to H.R. 3153 is accepted for the purpose for providing sufficient time for Congress to study and address this issue as it relates to farmers and farm-related service industries?

Mr. OBERSTAR. Again the gentleman has stated the issue correctly. That is the understanding and that is the purpose of this amendment to H.R. 3153.

Mr. POSHARD. I thank the gentleman from Minnesota for yielding.

Mr. OBERSTAR. Madam Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Madam Speaker, I would like to thank personally the gentleman from Minnesota [Mr. OBERSTAR], the ranking minority member of the Committee on Transportation and Infrastructure, in no uncertain terms for his efforts and cooperation in regard to this legislation.

As we have mentioned, H.R. 3153 pertains to proposed regulations for the transportation of hazardous materials. The Department of Transportation has for some time been working on uniform nationwide regulations for the interstate transportation of hazardous materials.

H.R. 3153 is a bipartisan measure that will not only help bring this process to its conclusion but will ensure that effective State exceptions for intrastate transportation of such materials will not be immediately prohibited upon the effective date of the final rule.

This will allow for congressional scrutiny next year while not burdening the Nation's farmers with costly mandates that have been determined to be superfluous at the State and local level.

Madam Speaker, I would also like to acknowledge the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the Committee on Transportation and Infrastructure, and the gentleman from Wisconsin [Mr. PETRI], the chairman of the subcommittee, for their support as well as the hard work of the gentleman from Illinois [Mr. EWING], the gentleman from Michigan [Mr. BARCIA], the gentleman from Illinois [Mr. LAHOOD], and the gentleman from Indiana [Mr. BUYER] on this issue, and, of course, the gentleman from Texas [Mr. DELAY], the sponsor of the bill itself.

Mr. EWING. The gentleman from Illinois [Mr. LAHOOD] and I are neighbors in the congressional districts of central Illinois, so we know how important this legislation is to the Committee on Agriculture. It has been my pleasure to work with these gentleman as well as the gentleman from Michigan [Mr. BARCIA] who is a fellow colleague on the Committee on Transportation and Infrastructure, and they, along with the gentleman from Indiana [Mr. BUYER], have been an integral part of this process and their support is much appreciated.

Mr. PETRI. Madam Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. LAHOOD].

Mr. LAHOOD. Madam Speaker, I rise in support of H.R. 3153 which, through the hard work of Congressmen TOM EWING and STEVE BUYER, has been amended to provide relief for farmers and agricultural drivers from the Department of Transportation's rulemaking of the transportation of hazardous materials.

I want to thank the gentleman from Illinois [Mr. EWING], the gentleman from Indiana [Mr. BUYER], the gentleman from Illinois [Mr. POSHARD], the gentleman from Wisconsin [Mr. PETRI], and the gentleman from Pennsylvania [Mr. SHUSTER] for spearheading this important effort that will help protect farmers from unnecessary regulation.

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Unfortunately, neither could be present today due to long-standing prior commitments, but I believe they deserve our sincere thanks for moving this forward.

I also want to thank Congressman OBERSTAR for being so helpful to the agricultural community.

Their leadership on this issue has been extremely valuable. Absent substantial modifications, the HM-200 rulemaking presently being proposed by the U.S. DOT/Research and Special Programs Administration would supersede every State exception granted to the agriculture industry for transfer of agricultural production materials, such as fertilizers, and fuel from retail-to-farm and from farm-to-farm.

The agreement contained in section 4 of H.R. 3143 would provide relief for farmers and retailers, and allow States to do exactly what they are now doing, until after Congress has had a chance to review, and correct if necessary, DOT's final rule.

The agreement in the bill today would continue the current practice regarding the transportation of agricultural products until after Congress passes a reauthorization of the Hazardous Materials Transportation Safety Act, or through the 1998 planting season.

All of the congressional supporters of H.R. 3799 and H.R. 4102, the Farm Transportation Regulatory Relief Act, realize that agriculture has unique needs and operates under critical seasonal time pressures.

Burdening farmers with unnecessary bureaucratic requirements such as having to placard their trucks, carry shipping documents, and provide a 24-hour emergency response phone number will only impede farmers' ability to efficiently plant and care for their crops. These regulations, Madam Speaker, will not improve rural highway safety—they will only hurt our Nation's farmers.

Mr. BUYER. Madam Speaker, the matter before us today is a perfect example of how this institution can work effectively and in a bipartisan manner to combat bad policy. I am grateful to Mr. EWING, Mr. POSHARD, and Mr. BARCIA for their strong support and diligent efforts in this matter. In addition, I appreciate the assistance and cooperation of Chairman SHUSTER, Ranking Minority Member OBERSTAR, Subcommittee Chairman PETRI, Subcommittee Ranking Member RAHALL, and Majority Whip DELAY.

For the past few months a bipartisan effort has undertaken a cause to address a little

known proposed regulation, HM–200, regarding the Federal Hazardous Materials Transportation Act that would most likely cost the average farmer between $2,000 to $3,000. The overall impact of the regulation could exceed $7 billion for the agriculture industry.

The Department of Transportation's [DOT] proposed regulation would supercede every State exception granted to the agriculture industry in the transferring of agricultural production material from either retail-to-farm or from farm-to-farm. Besides the regulatory burdens of such a mandate, the enforcement is even less practical.

On June 27, 1996, I spoke during consideration of the fiscal year 1997 Transportation appropriations bill regarding HM–200. The next day many farmers, members of the agriculture industry, and colleagues contacted my office expressing opposition to HM–200. As a result, I introduced H.R. 3799, a bill that seeks to provide the States with the authority to grant exceptions to the agriculture industry. Soon afterwards, 48 of our colleagues joined my in sending a bipartisan letter to Dr. D.K. Sharma, administrator of the Research and Special Programs Administration of the Department of Transportation, in opposition to the proposed rule.

Madam Speaker, many States have had in place for years exceptions that allow retailers and farmers to transport regulated agrichemicals to the farms without having to placard their trucks, carry shipping documents, and provide a 24-hour emergency response phone number. The rural, local transportation of agrichemicals under these exceptions has allowed agribusinesses and farmers to move product efficiently and safely during the farming season. In fact, most of these chemicals are transferred during a short 2 to 4 week period.

Without the same exceptions that have been granted for the industry in the transfer of such chemicals in the past, farmers will have to abide by time consuming, burdensome, and costly regulations. Such regulations will not make our rural roads safer, but only increase the cost of doing business, cause confusion, and require farmers to complete useless paperwork. The penalty for not abiding by the regulations can run $2,500 to $10,000 per violation.

Our bipartisan effort believes the one-size-fits-all approach fails to recognize the unique seasonal and rural nature of this business. Second, by States already allowing such exceptions, they have weighed the concerns and found the risks to be minimal. Finally, the goal of these efforts has been to allow States the right to continue to provide exceptions for the transfer of such chemicals from retail-to-farm and from farm-to-farm if they so decide.

To farmers, this proposed regulation represents another heavyhanded Federal regulation that is not needed, but inhibits farmers' ability to produce food for our Nation and the world. To me this is bigger—more intrusive—government. This is a perfect example of Washington bureaucrats not following the intent of Congress. When bureaucrats who have most likely never worked on a farm make rules that affect the industry the result is often bad policy.

Madam Speaker, at every step, this effort has gotten stronger and stronger. Last week, Congressmen EWING, POSHARD, BARCIA, and I introduced H.R. 4102 which is legislation that is more narrow than the original bill, H.R. 3799. Today, the language included in H.R. 3153 is a giant step in the right direction. Specifically, this bill would prohibit the final rule by the Department of Transportation under the rulemaking proceedings from prohibiting States from granting exceptions for farmers and farm-related service industries before the enactment of HAZMAT reauthorization or until the 180th day following the effective date of the final rule.

This bill provides Congress the opportunity to address this matter when Congress reauthorizes the HAZMAT during the 105th Congress, thus, allowing Congress to write responsible legislation while prohibiting the DOT from prohibiting farmers and those in the agricultural industry from transporting such chemicals if their respective States allow.

Again, I thank all those who participated in this bipartisan effort.

Mr. EWING. Madam Speaker, today the U.S. House of Representatives acted to protect farmers, farm retailers, many small businesses, and State's rights from potentially onerous regulations currently being proposed by the U.S. Department of Transportation. It is unfortunate that some proponents of "big government" and Washington, DC bureaucracies feel the need to preempt State laws and impose one-size-fits-all regulations on businesses and activities that have operated safely and efficiently for years without Federal regulation. Passage of H.R. 3153 was a victory for the "common sense" 104th Congress.

In its present form, the U.S. Department of Transportation, Research and Special Programs Administration's HM–200 rule-making would supersede every State exception granted to the agriculture industry for transfer of agricultural production materials, such as pesticides, fertilizers, and fuel from retail-to-farm and from farm-to-farm. In fact, this issue is so important to agriculture that 49 Members of Congress and 44 farm and agribusiness organizations endorsed corrective legislation that I introduced along with Representatives Buyer, Poshard, and Barcia, H.R. 4102, the Farm Transportation Regulatory Relief Act.

Although the agricultural production materials provisions contained in Section 4 of H.R. 3153 are not as comprehensive as the recommendations contained in H.R. 4102, the bipartisan agreement contained in H.R. 3153 would provide relief for farmers and retailers, and allow States to continue to do exactly what they are doing now, until after Congress has a chance to review DOT's final rule. This section would exempt agricultural production materials from DOT's final intrastate regulations until after Congress passes a reauthorization of the Hazardous Materials Transportation Safety Act, or through the 1998 planting season.

State governments realize that agriculture has unique needs and operates under critical seasonal time pressures. There is no need to impose uniform hazardous materials transportation standards on not-for-hire intrastate transportation of agricultural chemicals and materials. Burdening farmers with costly and unnecessary bureaucratic requirements like having to placard their trucks, carry shipping documents, and provide a 24-hour emergency response phone number will only impede farmers' ability to efficiently plant and care for their crops. It will not improve safety on rural roads!

I would particularly like to thank Mr. BUYER, Mr. POSHARD, Mr. BARCIA, and Majority Whip DELAY for their support and hard work to ensure farmers and retailers are protected from DOT's unnecessary and burdensome regulations. Farmers are primarily small business people, who work extremely hard to make ends meet. They care about their safety, the safety of others, and the environment. I hope DOT will reevaluate its opinion of agriculture, and its unique transportation needs; however, if they do not, I am prepared to continue to work with my colleagues to ensure Congress takes the necessary action to permanently protect production agriculture from these unnecessary and bureaucratic regulations.

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

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

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the amendment in the nature of a substitute and on the bill.

The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin [Mr. PETRI].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of Transportation to issue a final rule relating to materials of trade exceptions from hazardous materials transportation requirements."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PETRI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material in the RECORD on H.R. 3153.

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

There was no objection.

TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS

The Clerk called the bill (H.R. 2988), to amend the Clean Air Act to provide that traffic signal synchronization

projects are exempt from certain requirements of Environmental Protection Agency rules.

The Clerk read the bill, as follows:

H.R. 2988

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

SECTION. 1. TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS.

Section 176(c)(4) of the Clean Air Act is amended by adding the following at the end thereof:

"(D) Traffic signal synchronization projects shall be exempt from regional emissions analysis requirements and from requirements under rules of the Administrator for determining the conformity to State or Federal implementation plans of transportation plans, programs, and projects funded or approved under title 23 of the United States Code or the Federal Transit Act.".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE.

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: strike out all after the enacting clause and insert:

SECTION. 1. TRAFFIC SIGNAL SYNCHRONIZATION PROJECTS.

Section 176(c)(4) (42 U.S.C. 7506(c)(4)) of the Clean Air Act is amended by adding the following at the end thereof:

"(D) Compliance with the rules of the Administrator for determining the conformity of transportation plans, programs, and projects funded or approved under title 23 of the United States Code or the Federal Transit Act to State or Federal implementation plans shall not be required for traffic signal synchronization projects prior to the funding, approval or implementation of such projects. The supporting regional emissions analysis for any conformity determination made with respect to a transportation plan, program, or project shall consider the effect on emissions of any such project funded, approved, or implemented prior to the conformity determination.".

Mr. SCHAEFER (during the reading). Madam Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from California [Mr. WAXMAN] will each control 30 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

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

Madam Speaker, H.R. 2988 was introduced by the gentleman from California, Congressman MCKEON, and has been endorsed by the Bipartisan Speaker's Advisory Group on Corrections. It has the support of both the majority and minority of the House Commerce Committee, and was passed out of the committee on a voice vote.

I would like to thank Mr. MCKEON for bringing this issue to the committee's attention, as well as the Speaker's Advisory Group and the minority for its work on this issue.

The issue that H.R. 2988 seeks to address is narrow, but nonetheless important. Currently, EPA requires that nearly all transportation projects be reviewed to determine if they "conform" to the State's implementation plan for compliance with the Clean Air Act. This includes traffic synchronization projects, even though most, if not all, synchronization projects lower vehicle emissions. By requiring that these projects be reviewed before they can be implemented, some projects may be delayed by a year or more, resulting in an increase in vehicle emissions.

H.R. 2988 would allow synchronization projects to proceed as soon as they are approved and funded, before conformity determinations are made. Nothing in this bill, however, would relieve a jurisdiction from its responsibility to conduct a regional emissions analysis at a later date, if one is deemed necessary by EPA.

H.R. 2988 will streamline the approval process for traffic synchronization projects and act to speed up these projects. I urge the passage of this bill, which will decrease motorist frustration, as well as vehicle emissions.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of this bill and I want to commend my colleague, the gentleman from California [Mr. MCKEON] for bringing this issue to us.

It came first to the Corrections Day Advisory Committee because this really is a genuine proposal to correct an anomaly in the law. That anomaly is if the local governments want to synchronize the signals so that passengers do not have to stop every block or so, there seems to be a question of whether they might be in violation of the clean air law.

We discussed this in the context of how to make the proposal work and not have unintended consequences, as far as we knew anyway, and I think we have a good proposal. It reflects a compromise that we developed with the gentleman from California [Mr. MCKEON], and I thank him for bringing this matter to our attention.

This bill will allow communities to synchronize their traffic lights without needless delay.

Under the Clean Air Act, before a transportation project can go forward the project must be determined to be in conformity with State or Federal implementation plans.

Because many jurisdictions make conformity determinations only once a year, projects can be delayed while awaiting a conformity determination.

This bill will allow traffic light synchronization projects to go forward without first undergoing a conformity determination.

Then the project's effects on air pollution can be fully considered when the next conformity determinations are made.

This is a narrow but important issue, and it is notable as well for the process with which it was crafted.

Representative MCKEON first brought this bill before the Corrections Day Advisory Group this spring. We engaged in collegial discussions and have been able to craft a bill that works toward the goals of the Clean Air Act, but gives local governments the flexibility they feel they need.

In my view, this is a model way to protect and improve our environmental laws. Earlier in this Congress, some proposed wholesale repeals of even our most successful environmental laws—all in the name of increasing flexibility.

This bill is an example of how we can address desires for flexibility while maintaining the integrity of our environmental laws.

This marks the second time we have amended the Clean Air Act through the corrections process. Earlier this year, we passed a bill which gave States greater flexibility in implementing the Clean Air Act's employee trip reduction requirements. That bill has now become law. This bill should become law as well.

I urge your support for H.R. 2988 and again want to recognize Representative MCKEON for his outstanding efforts on this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. SCHAEFER. Madam Speaker, I yield 3 minutes to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Madam Speaker, I want to thank the chairman for yielding me this time.

Madam Speaker, I rise to urge a "yes" vote on H.R. 2988, which corrects a regulation in the Clean Air Act that unnecessarily delays the implementation of traffic signal synchronization projects.

This issue was brought to my attention last year by the city of Lancaster, CA, which is in my congressional district. The city had proposed a straightforward traffic signal synchronization project that would improve traffic flow and reduce congestion in the community. The city had hoped to implement this project in a timely manner. However, because of an EPA rule governing the implementation of these projects in air quality nonattainment areas, a regional emissions analysis of the project was required. The city became

frustrated when it learned that it could take more than a year for the responsible local agency to perform the required analysis, and contacted my office for assistance.

As written, H.R. 2988 would allow synchronization projects to be implemented before undergoing a regional emissions analysis to determine whether the project conforms to a State or Federal air quality implementation plan. The signal synchronization project would still be subject to the traditional review process that exists for determining the air quality implications of the project. This is a fair, nonpartisan bill that deserves our support, and I would like to thank my friends from Virginia, Chairman BLILEY, the gentleman from Colorado, Chairman SCHAEFER, and my friend from California, Mr. WAXMAN, for their support in moving this legislation forward. I especially want to note that when I discussed this legislation with the correction's day task force earlier this year, Mr. WAXMAN volunteered his help in addressing this issue, and I have valued his involvement in bringing this bill before us today.

I urge a "yes" vote.

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

Mr. OBERSTAR. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I have never liked this corrections day procedure. I think it is very much contrary to the spirit of legislating, creating a whole new category of majority, and because my concern at the very outset was that these issues would not likely be given substantial consideration in committees.

Today we have an example of an issue that was not given the benefit of public hearings, either in the Committee on Commerce or in the Committee on Transportation and Infrastructure.

I do not disagree with the intent of the proponents of this legislation, but it does raise very significant policy issues that at least ought to have been aired in the committee process.

The legislation would create an entirely new type of exemption to the Clean Air Act's conformity requirements. That is cause in itself to have hearings and to air this issue so the public can have input and so Members of Congress who have concerns about the policy could have at least the opportunity to debate the issue in the committee structure.

Meanwhile, the Environmental Protection Agency is proceeding on streamlining its transportation conformity rule, and specifically is reviewing this issue of signalization in the course of rulemaking. That public process of rulemaking should be allowed to proceed prior to any legislative action being taken by the Congress, especially on a bill on which hearings have not been held.

There is a jurisdictional concern for me, and that is the issues raised within the bill are clearly within the ambit of the congestion, mitigation and air quality provisions of ISTEA, Intermodal Surface Transportation Efficiency Act of 1991. Therefore, they are within the jurisdiction of the Committee on Transportation and Infrastructure, to whom the bill was not even referred.

The bill affects the ability of States and localities to use Federal transportation funds in nonattainment areas. A change of that significance ought to be reviewed by the committee with generic jurisdiction over transportation.

In addition, the bill specifically amends section 176 of the Clean Air Act. In 1990, when the Committee on Public Works and Transportation, as it was then known, undertook consideration of ISTEA, we very clearly and extensively looked at the impact on clean air requirements of congestion in urbanized areas. We specifically amended section 176, and the Speaker of the House appointed Committee on Transportation and Infrastructure members as conferees on this section during consideration of ISTEA.

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The bill is properly within the jurisdiction of our committee.

Under EPA's rules, transportation projects that have a neutral or a very small impact on air quality are exempt from conformity determinations, those determination which cover a project's impact on a region's air quality. So when a community constructs bike and pedestrian paths or purchases new buses, it may use Federal transportation dollars to fund the project without showing the air quality effects, in this case benefits, or alternative transportation projects.

Under current rules, traffic signalization projects which are not regionally significant may be funded without a new regional emissions analysis but region-wide traffic signalization and synchronization projects that affect hundreds of intersections are not exempt from the Clean Air Act's conformity determination. Those projects are likely to affect traffic on a regional level, and the impacts may be positive; they may be negative, depending on the pollutant involved and the speeds on the roads and the impact of traffic flow at the regional level.

Improved traffic flow and increases in traffic speed may reduce carbon monoxide emissions. They may also increase nitrogen oxide emissions in certain speed ranges; particulate matter, PM–10. Those emissions may also increase under certain conditions. These pollutant effects, together with the affected projects, are best considered as part of a community's conformity plan.

Under this legislation, region-wide traffic signal synchronization projects are prospectively exempted from the Clean Air Act's required conformity determination. So States and localities can use Federal funds to adopt region-wide synchronization projects without considering the Clean Air Act effects of the projects before they undertake them. Subsequently States and localities will look back at the effects of these projects in their next conformity determination.

So the bill creates an entirely new category of exemption: projects not required to show conformity with air quality controls prior to funding, but projects that have to look back to see what good or harm they did after they have been done. Now, that is an inherent conflict, and it should have been aired, should have been extensively discussed, and it was not, unfortunately.

So I just do not think in the waning hours of the Congress we should pass something so hastily, albeit in response to a wide range of concern. I do not question at all the concerns based on real circumstances, but their is another forum, the rulemaking process in which this should be considered. There is another forum, the committee hearing process, in which this should be considered.

We should have taken this matter up in our committee against the backdrop of 2 years of hearings prior to enactment of ISTEA, against the backdrop of regional transportation institutes that are studying and developing synchronization projects under scientific conditions, and given this a full, thorough in-depth consideration. That is what troubles me about this process. That is why I oppose the legislation and urge Members to oppose the bill.

Mr. SCHAEFER. Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Madam Speaker, I thank my colleague from Colorado for yielding me this time.

Madam Speaker, this bill, which amends the Clean Air Act Amendments of 1990, would allow States to avoid delay and implement traffic signal synchronization projects prior to demonstrating that such projects are in conformity with State and Federal implementation plans. Instead, States would be required to consider the effect on emissions of such projects in subsequent conformity determinations. As a result, this bill does not waive any Clean Air Act conformity requirements.

Although I do not object to the bill today, I note for the record that the subject matter of H.R. 2988 does fall within the jurisdiction of the Committee on Transportation and Infrastructure as well as the Committee on Commerce. When Congress was considering the Clean Air Act Amendments of 1990, members of the Committee on Public

Works and Transportation were named as conferees on various provisions of the bill that impacted transportation, including the very provision being amended.

While not ceding our committee's shared jurisdiction on conformity provisions within the Clean Air Act, I do applaud this bill which seeks to speed project delivery and enhance air quality and traffic congestion.

Mr. WAXMAN. Madam Speaker, I yield myself 2 minutes.

I think we have a good example of why the Corrections Day Calendar was needed. Here we have a commonsense proposal by the Representative from California, Mr. MCKEON, to say that, if a local government wants to synchronize their traffic signals, they should be able to do it.

The question that we had before us is whether that is going to interfere with environmental standards under the Clean Air Act. Our committee, which is the primary committee on the Clean Air Act, I looked at that issue and made sure we are not going to add to pollution. That was really not a factor. If it added to air pollution, it would be considered later.

That is why this thing has been worked out, and now this bill is being presented to the full House for consideration on the Corrections Day Calendar.

The argument by my good friends and colleagues, the gentleman from Wisconsin [Mr. PETRI] and the gentleman from Minnesota [Mr. OBERSTAR] was they should have had jurisdiction. They should have been able to look at this bill. They should have considered it within a couple of years of hearings.

Well, how many years of hearings do we need on the idea that cities and communities ought to be able to synchronize their traffic signals? Why should this be held up for a long period of time? I think the idea of the Corrections Day Calendar was not to let committee jurisdictions become an impediment for doing something that is sensible.

Now, if the Committee on Transportation and Infrastructure should have had jurisdiction, they should have gone to the Speaker and said: Refer this bill to us. You referred it to Commerce. We think we have jurisdiction, refer it to us as well.

Presumably they did. If they did not, they should have. But if they did and the Speaker looked at it and said this is something that has been reviewed sufficiently, and it is his decision to end it to the House floor, it is now before us.

Madam Speaker, I do not think we ought to let jurisdictional concerns hold up a commonsense proposal that has been reviewed by the committee that has primary, maybe exclusive jurisdiction over the Clean Air Act.

I respect the fact that the Committee on Transportation and Infrastructure has areas of the law that might also impact on this. That issue should have been taken up with the Speaker. But I would hope we would not hold up something interminably that is so small and makes so much sense.

Mr. OBERSTAR. Madam Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Speaker, I thank the gentleman for yielding. I want to offer a correction of my own.

In my statement I said we held 2 years of hearings on ISTEA before bringing the legislation to the House floor. I felt this provision should at least have had hearing, not 2 years of hearings.

The gentleman may have confused something I said earlier with my suggestion that we have hearings. At least a half day of hearing, at least an hour of hearing the issue would have been sufficient.

Mr. WAXMAN. Madam Speaker, I yield myself 1 minute.

I appreciate what the gentleman is saying, and that is a correction, but the point I would still make is we looked at it with our majority and minority staff on the Committee on Commerce. We talked about ways to make this legislation work. We did not feel a hearing would be particularly productive because I do not know what anybody would have to say about the idea that a community should be able to synchronize their traffic signals.

But I respect the fact the gentleman feels there should have been a jurisdictional claim, and in exercising his jurisdiction he might have held a hearing and might not have. But I would hope now we will pass this bill forward to the other body. I hope it becomes law.

Madam Speaker, I reserve the balance of my time.

Mr. SCHAEFER. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Madam Speaker, I thank my very good friend, the subcommittee chairman, for yielding me this time. I rise in strong support of this effort that the gentleman from California [Mr. MCKEON] is moving ahead with under this corrections day procedure.

I am here to not only support Mr. MCKEON's efforts but to support what we are doing with this corrections day procedure. I want to begin as we sit here just 42 days before the election to congratulate wholeheartedly my fellow Angelino, Mr. WAXMAN, for his excellent statement and his assessment that the has provided of not only this effort of Mr. MCKEON's but also the corrections day procedure.

I also want to congratulate Mr. WAXMAN for the terrific testimony that he gave to our Committee on Rules about 10 days ago, I guess it was on September 12, when he looked at the issue of corrections day and said, and I am going to quote his testimony here, he said: When corrections day was first proposed over a year ago, I had serious reservations about instituting such a process. I was concerned that the corrections procedure would become a fast track for special interest legislation.

I think that was a justifiable concern he raised at that point, but we have worked in a bipartisan way to do everything possible to ensure that the Corrections Day Calendar would be used as it was intended, to deal with preposterous situations like Mr. MCKEON's attempt to synchronize traffic lights when we have a bureaucracy in Washington that is blocking that.

The assessment that Mr. WAXMAN went on to make was that he believes the process has worked basically as intended, and I quote, the bills that were placed on the Corrections Day Calendar were for the most part noncontroversial and appropriate for the abbreviated legislative process of corrections day. The corrections day process has proved an opportunity to expeditiously legislate. We have been able to repeal duplicative laws, act to increase flexibility and even make bipartisan policy changes.

The speech that my friend, the gentleman from California [Mr. WAXMAN], just gave is one that I think more often than not emanates from this side of the aisle. I would like to congratulate HENRY WAXMAN for his vision in being so strongly committed in dealing with a preposterous situation like this.

Madam Speaker, I thank my friend for yielding and appreciate his efforts for moving this forward. I strongly want to support the gentleman from California [Mr. MCKEON] in his efforts.

Mr. WAXMAN. Madam Speaker, I yield myself 1 minute to thank the gentleman from California for his kind statements. I think the Corrections Day Calendar has worked well for the most part. It can work well. We always have to be vigilant it is not used for improper purposes. Under the leadership of our chairman, the gentlewoman from Nevada, BARBARA VUCANOVICH, who has been exceedingly fair, I think the committee has lived up to the representations of those who called for it claimed and those of us who were wary and skeptical have been proved wrong.

I thank the gentleman for his statements in support of this legislation as well.

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

Mr. SCHAEFER. Madam Speaker, I yield myself such time as I may consume to again say to the gentlemen from California, Mr. WAXMAN and Mr. MCKEON, that this is excellent legislation, and I think it is going to certainly speed up the process and be good for the American people.

Mr. SHUSTER. Madam Speaker, I rise in support of H.R. 2988.

This bill, which amends the Clear Air Act Amendments of 1990, would allow States to implement traffic signal synchronization projects without first having to make a determination that such projects are in conformity with State and Federal implementation plans.

It is important to note that this bill does not waive Clean Air Act conformity requirements, but requires States to consider the emissions effect of these projects in subsequent conformity determinations.

The Transportation Committee shares jurisdiction with the Commerce Committee over the transportation conformity provisions of the Clean Air Act. During consideration of the Clean Air Act Amendments of 1990, members of the Committee on Public Works and Transportation were conferees on the transportation conformity provisions and worked closely with the Commerce Committee to resolve these issues.

We on the Transportation Committee have closely followed the implementation of the transportation conformity rules because of their direct impact on transportation programs. The conformity rules are often determinative of whether transportation projects can be built in urban areas.

The bill before us today is a constructive proposal that will facilitate completion of projects that will decrease traffic congestion and improve air quality and I therefore urge support of the bill.

Mr. BILIRAKIS. Madam Chairman, I rise in support of H.R. 2988, the Traffic Signal Synchronization Act.

Under section 176 of the Clean Air Act, transportation plans, programs and projects must conform to a State's air quality implementation plan [SIP]. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

EPA requires that nearly all transportation projects be reviewed to "conform" to the State's implementation plan for attaining or maintaining the national ambient air quality standards. This includes traffic synchronization projects, even though most, if not all, synchronization projects lower vehicle emissions. By requiring that these projects be reviewed before they can be implemented, some projects may be delayed by a year or more, resulting in an increase in vehicle emissions.

Clearly, this situation is contrary to the original intent of the Clean Air Act. As chairman of the Commerce Health and Environment Subcommittee, which has jurisdiction over the Clean Air Act, I would like to thank Representative MCKEON, who introduced H.R. 2988, for bringing this matter to the attention of the Commerce Committee. I would also like to thank Representative WAXMAN, the ranking minority member of the Health and Environment Subcommittee, for his willingness to seek a bipartisan solution to this problem.

During our markup, the Commerce Committee unanimously approved an amendment in the nature of a substitute which allows synchronization projects to proceed at the earliest opportunity while a regional emissions analysis or other conformity determinations are made. However, nothing in the bill, as amended, would relieve a jurisdiction from its responsibility to conduct a regional emissions analysis at a later date, if one is deemed necessary by EPA. It is the purpose of the legislation that traffic light synchronization projects be approved and that any emissions increase or decrease caused by such synchronization be credited or made up in the overall SIP.

Altogether, H.R. 2988, as amended, will streamline the approval process for traffic synchronization projects and act to speed up these projects—resulting in lower emissions.

I believe H.R. 2988 is consistent with correction's day and would urge my colleagues to support passage of this important legislation.

Mrs. VUCANOVICH. Madam Speaker, I rise today in strong support of H.R. 3153 and H.R. 2988, the two bills we are considering on the Corrections Day Calendar. This will be the last time this session that we call upon the Corrections Day Calendar as the 104th Congress comes to a close. I believe that we have had significant success and the corrections day process will be looked upon as a useful and productive means to make commonsense changes in current law.

I want to commend the Speaker for his creativity in working to make our lives less cumbersome and less intrusive, and I especially want to thank him for giving me the opportunity to chair this innovative and effective corrections day advisory group. It has also been an honor and a privilege to serve with my cochairs, Mr. ZELIFF and Mr. MCINTOSH, Mr. WAXMAN, and the other eight members of the advisory group in making this process a success. As we all know, change is never easy to implement, especially in the legislative process. However, I believe corrections day has worked and I am very pleased with what we have accomplished this Congress.

Since the commencement of corrections day, 10 bills have been signed into law by the President, and 8 bills have passed the House and are waiting further action in the Senate. The American people are demanding a more responsive Government, and corrections day is a key part in meeting their demands.

H.R. 3153, the Small Business Transport Correction Advancement Act, directs the Secretary of Transportation to issue a final rule concerning the "materials of trade" exception by December 31, 1996. This bill would provide an exception for small businesses such as farming, plumbing, and painting to transport relatively small quantities of certain hazardous materials. Also, H.R. 2988, the Traffic Signal Synchronization Act, allows States to quickly implement traffic light synchronization projects, which would likely lower vehicle emissions. The bill also requires the EPA to examine the effects of traffic synchronization projects in all subsequent conformity reviews.

I believe that the two bills we are considering today are good examples of how the corrections day process works well in a bipartisan manner with the agency and committees of jurisdiction. I want to recognize the Committees on Transportation and Commerce, Chairman SHUSTER and Chairman BLILEY, and their staffs for the expedient and hard work they did to get these bills to the floor. I am hopeful that the Senate will recognize the need for quick action and send these bills to the President without delay.

Mr. DINGELL. Madam Speaker, I also rise in support of this measure as amended by the Commerce Committee. It will clarify our intent that traffic signal synchronization projects should go forward without delay while still preserving the overall duty of regional authorities to monitor the air quality impacts of transportation projects. In this way, the bill promotes local flexibility while ensuring that air quality will not be harmed.

I do regret that we must even take up this amendment to the Clean Air Act. It is my strong view that there should never have been an issue as to whether traffic light projects that ease congestion are subject to the Clean Air Act's conformity requirements. However, EPA failed to reach this common sense conclusion so we are forced to act.

I thank Chairman BLILEY, Mr. MCKEON—the author of the measure—and Mr. WAXMAN for their work on this bill.

I urge my colleagues to vote "yes" on the measure.

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

The SPEAKER pro tempore (Ms. GREENE of Utah). Pursuant to the rule, the previous question is ordered on the committee amendment in the nature of a substitute and the bill.

The question is on the committee amendment in the nature of a substitute.

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

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHAEFER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may be permitted to insert extraneous material in the RECORD on the bill just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas are 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 after debate has concluded on

all motions to suspend the rules but not before 5 p.m. today.

GOVERNMENT-SPONSORED ENTERPRISE PRIVATIZATION ACT OF 1996

Mr. McKEON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1720) to amend the Higher Education Act of 1965 to provide for the cessation of Federal sponsorship of two Government-sponsored enterprises, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1720

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 "Government-Sponsored Enterprise Privatization Act of 1996".

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

Sec. 1. Short title; table of contents.

TITLE I—REORGANIZATION AND PRIVATIZATION

Sec. 101. Reorganization of the Student Loan Marketing Association through the formation of a holding company.
Sec. 102. Connie Lee privatization.
Sec. 103. Eligible institution.

TITLE II—MUSEUMS AND LIBRARIES

Sec. 201. Museum and library services.
Sec. 202. National Commission on Libraries and Information Science.
Sec. 203. Transfer of functions from Institute of Museum Services.
Sec. 204. Service of individuals serving on date of enactment.
Sec. 205. Consideration.
Sec. 206. Transition and transfer of funds.

TITLE III—EXTENSION OF PROGRAMS

Sec. 301. Extension of National Literacy Act of 1991.
Sec. 302. Adult Education Act Amendments.
Sec. 303. Extension of Carl D. Perkins Vocational and Applied Technology Education Act.

TITLE IV—REPEALS AND CONFORMING AMENDMENTS

Sec. 401. Repeals.
Sec. 402. Conforming amendments.

TITLE I—REORGANIZATION AND PRIVATIZATION

SEC. 101. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

(a) AMENDMENT.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by inserting after section 439 (20 U.S.C. 1087-2) the following new section:

"SEC. 440. REORGANIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION THROUGH THE FORMATION OF A HOLDING COMPANY.

"(a) ACTIONS BY THE ASSOCIATION'S BOARD OF DIRECTORS.—The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b), a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

"(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

"(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

"(b) SHAREHOLDER APPROVAL.—The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

"(c) TRANSITION.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

"(1) IN GENERAL.—Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 439, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 439, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this Act until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 439(q) or under an agreement with the Secretary described in paragraph (6).

"(2) TRANSFER OF CERTAIN PROPERTY.—

"(A) IN GENERAL.—Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

"(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on the date of enactment of this section and any interest in any government-sponsored enterprise);

"(ii) contracts, leases, and other agreements of the Association;

"(iii) licenses and other intellectual property of the Association; and

"(iv) any other property of the Association.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

"(3) TRANSFER OF PERSONNEL.—On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

"(4) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 439(r). If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

"(5) CERTIFICATION PRIOR TO DIVIDEND.—Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

"(6) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY ASSOCIATION.—

"(A) IN GENERAL.—After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 439(d) other than in connection with—

"(i) student loan purchases through September 30, 2007;

"(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

"(iii) the Association serving as a lender-of-last-resort pursuant to section 439(q); and

"(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

"(B) AGREEMENT.—The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A)

with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 439(h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

"(7) ISSUANCE OF DEBT OBLIGATIONS DURING THE TRANSITION PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 439(q) or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 439, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d).

"(8) MONITORING OF SAFETY AND SOUNDNESS.—

"(A) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

"(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

"(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

"(B) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

"(C) SEPARATE OPERATION OF CORPORATIONS.—

"(i) IN GENERAL.—The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

"(ii) BOOKS AND RECORDS.—The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

"(iii) CORPORATE OFFICE.—The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

"(iv) DIRECTOR.—No director of the Association who is appointed by the President pursuant to section 439(c)(1)(A) may serve as a director of the Holding Company.

"(v) ONE OFFICER REQUIREMENT.—At least one officer of the Association shall be an officer solely of the Association.

"(vi) TRANSACTIONS.—Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

"(vii) CREDIT PROHIBITION.—The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

"(viii) AMOUNTS COLLECTED.—Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

"(D) ENCUMBRANCE OF ASSETS.—Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the contrary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

"(E) HOLDING COMPANY ACTIVITIES.—After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

"(F) CONFIDENTIALITY.—Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 439(r)(12).

"(G) DEFINITION.—For purposes of this paragraph, the term 'associated person' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

"(9) ISSUANCE OF STOCK WARRANTS.—On the reorganization effective date, the Holding Company shall issue to the Secretary of the Treasury a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding the date of enactment of this section, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to the date of enactment of this section on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each warrant and the exercise price of each warrant shall be adjusted as necessary to reflect—

"(A) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

"(B) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

"(10) RESTRICTIONS ON TRANSFER OF ASSOCIATION SHARES AND BANKRUPTCY OF ASSOCIATION.—After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, United States Code, without prior approval of the Secretary of the Treasury and the Secretary of Education.

"(d) TERMINATION OF THE ASSOCIATION.—In the event the shareholders of the Association approve a plan of reorganization under subsection (b), the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 439(q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (6). On the dissolution date, the Association shall take the following actions:

"(1) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying obligations to the trust in the amount necessary to prevent any deficiency.

"(2) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

"(3) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

"(4) TRANSFER OF REMAINING ASSETS.—After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

"(e) OPERATION OF THE HOLDING COMPANY.—In the event the shareholders of the Association approve the plan of reorganization under subsection (b), the following provisions shall apply beginning on the reorganization effective date:

"(1) HOLDING COMPANY BOARD OF DIRECTORS.—The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

"(2) HOLDING COMPANY NAME.—The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

"(A) may not contain the name 'Student Loan Marketing Association'; and

"(B) may contain, to the extent permitted by applicable State or District of Columbia law, 'Sallie Mae' or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

"(3) USE OF SALLIE MAE NAME.—Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the 'Sallie Mae' name as a trademark and service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the 'Sallie Mae' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the Secretary of the Treasury $5,000,000 within 60 days of the reorganization effective date as compensation for the right to assign such trademark or service mark.

"(4) DISCLOSURE REQUIRED.—Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

"(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

"(B) in any advertisement or promotional materials which use the 'Sallie Mae' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

"(f) STRICT CONSTRUCTION.—Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

"(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

"(h) DEADLINE FOR REORGANIZATION EFFECTIVE DATE.—This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after the date of enactment of this section.

"(i) DEFINITIONS.—For purposes of this section:

"(1) ASSOCIATION.—The term 'Association' means the Student Loan Marketing Association.

"(2) DISSOLUTION DATE.—The term 'dissolution date' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d).

"(3) HOLDING COMPANY.—The term 'Holding Company' means the new business corporation established pursuant to this section by the Association under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a).

"(4) REMAINING OBLIGATIONS.—The term 'remaining obligations' means the debt obligations of the Association outstanding as of the dissolution date.

"(5) REMAINING PROPERTY.—The term 'remaining property' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

"(A) Debt obligations issued by the Association.

"(B) Contracts relating to interest rate, currency, or commodity positions or protections.

"(C) Investment securities owned by the Association.

"(D) Any instruments, assets, or agreements described in section 439(d) (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

"(E) Except as specifically prohibited by this section or section 439, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

"(6) REORGANIZATION.—The term 'reorganization' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a).

"(7) REORGANIZATION EFFECTIVE DATE.—The term 'reorganization effective date' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) and shall not be later than the date that is 18 months after the date of enactment of this section.

"(8) SUBSIDIARY.—The term 'subsidiary' means one or more direct or indirect subsidiaries.".

(b) TECHNICAL AMENDMENTS.—

(1) ELIGIBLE LENDER.—

(A) AMENDMENTS TO THE HIGHER EDUCATION ACT.—

(i) DEFINITION OF ELIGIBLE LENDER.—Section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F)) is amended by inserting after "Student Loan Marketing Association" the following: "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440,".

(ii) DEFINITION OF ELIGIBLE LENDER AND FEDERAL CONSOLIDATION LOANS.—Sections 435(d)(1)(G) and 428C(a)(1)(A) of such Act (20 U.S.C. 1085(d)(1)(G) and 1078–3(a)(1)(A)) are each amended by inserting after "Student Loan Marketing Association" the following: "or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 440".

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 (as added by subsection (a)).

(2) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is amended—

(A) in the first sentence of paragraph (12), by inserting "or the Association's associated persons" after "by the Association";

(B) by redesignating paragraph (13) as paragraph (15); and

(C) by inserting after paragraph (12) the following new paragraph:

"(13) ENFORCEMENT OF SAFETY AND SOUNDNESS REQUIREMENTS.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.".

(3) FINANCIAL SAFETY AND SOUNDNESS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087–2(r)) is further amended—

(A) in paragraph (1)—

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

(ii) by striking the period at the end of subparagraph (B) and inserting "; and"; and

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

"(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

"(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.";

(B) in paragraph (2)—

(i) by striking clauses (i) and (ii) of subparagraph (A) and inserting the following:

"(i) appoint auditors or examiners to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 440 are being met; and

"(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, United States Code, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 440 are being met."; and

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

"(D) ANNUAL ASSESSMENT.—

"(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440 during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

"(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 440. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses."; and

(C) by inserting after paragraph (13) (as added by paragraph (2)(C)) the following new paragraph:

"(14) ACTIONS BY SECRETARY.—

"(A) IN GENERAL.—For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

"(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

"(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

"(B) APPLICABILITY.—The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.".

(4) INFORMATION REQUIRED; DIVIDENDS.—Section 439(r) of the Higher Education Act of 1965 (20 U.S.C. 1087-2(r)) is further amended—

(A) by adding at the end of paragraph (2) (as amended in paragraph (3)(B)(ii)) the following new subparagraph:

"(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

"(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

"(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

"(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

"(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

"(iii) DEFINITION.—For purposes of this subparagraph, the term 'associated person' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association."; and

(B) by adding at the end the following new paragraphs:

"(16) DIVIDENDS.—The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

"(17) CERTIFICATION PRIOR TO PAYMENT OF DIVIDEND.—Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.".

(c) SUNSET OF THE ASSOCIATION'S CHARTER IF NO REORGANIZATION PLAN OCCURS.—Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended by adding at the end the following new subsection:

"(s) CHARTER SUNSET.—

"(1) APPLICATION OF PROVISIONS.—This subsection applies beginning 18 months and one day after the date of enactment of this subsection if no reorganization of the Association occurs in accordance with the provisions of section 440.

"(2) SUNSET PLAN.—

"(A) PLAN SUBMISSION BY THE ASSOCIATION.—Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

"(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

"(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

"(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

"(B) AMENDMENT OF THE PLAN BY THE ASSOCIATION.—The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

"(C) PLAN MONITORING.—The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

"(D) AMENDMENT OF THE PLAN BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

"(E) IMPLEMENTATION BY THE ASSOCIATION.—The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

"(3) DISSOLUTION OF THE ASSOCIATION.—The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

"(A) ESTABLISHMENT OF A TRUST.—The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

"(B) USE OF TRUST ASSETS.—All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

"(C) OBLIGATIONS NOT TRANSFERRED TO THE TRUST.—The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

"(D) TRANSFER OF REMAINING ASSETS.—After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

"(4) RESTRICTIONS RELATING TO WINDING UP.—

"(A) RESTRICTIONS ON NEW BUSINESS ACTIVITY OR ACQUISITION OF ASSETS BY THE ASSOCIATION.—

"(i) IN GENERAL.—Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) other than in connection with the Association—

"(I) serving as a lender of last resort pursuant to subsection (q); and

"(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

"(ii) AGREEMENT.—The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) shall not apply to loans acquired under any such agreement with the Secretary.

"(B) ISSUANCE OF DEBT OBLIGATIONS DURING THE WIND UP PERIOD; ATTRIBUTES OF DEBT OBLIGATIONS.—The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether such debt obligations are transferred to a trust in accordance with paragraph (3).

"(C) USE OF ASSOCIATION NAME.—The Association may not transfer or permit the use of the name 'Student Loan Marketing Association', 'Sallie Mae', or any variation thereof, to or by any entity other than a subsidiary of the Association.".

(d) DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.—Part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended by adding after section 440 (as added by subsection (a)) the following new section:

"SEC. 440A. DISCRIMINATION IN SECONDARY MARKETS PROHIBITED.

"The Student Loan Marketing Association (and, if the Association is privatized under section 440, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.".

(e) REPEALS.—

(1) IN GENERAL.—Sections 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) and 440 of such Act (as added by subsection (a) of this section) are repealed.

(2) EFFECTIVE DATE.—The repeals made by paragraph (1) shall be effective one year after—

(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

(B) the date on which all of the obligations of the trust established under subsection 439(s)(3)(A) of such Act (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.

(f) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of 1965 (20 U.S.C. 1087–2), the names "Student Loan Marketing Association", "Sallie Mae", and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act) without the approval of the Secretary of the Treasury.

(g) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (f), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (f).

SEC. 102. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation, as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(C) PROHIBITION.—Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(D) FINANCIAL SUPPORT OR GUARANTEES.—After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c), the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the

Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term "Corporation" as used in this section means the College Construction Loan Insurance Association as in existence on the day before the date of enactment of this Act, and any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1132f-3 and 1132f-9), as such sections were in effect on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within six months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104-153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(d) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

SEC. 103. ELIGIBLE INSTITUTION.

(a) AMENDMENT.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended by inserting after the end of the first sentence the following new sentence: "For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year that began on or before April 30, 1994.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any determination made on or after July 1, 1994, by the Secretary of Education pursuant to section 481(b)(6) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)(6)).

TITLE II—MUSEUMS AND LIBRARIES

SEC. 201. MUSEUM AND LIBRARY SERVICES.

The Museum Services Act (20 U.S.C. 961 et seq.) is amended to read as follows:

"TITLE II—MUSEUM AND LIBRARY SERVICES

"Subtitle A—General Provisions

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Museum and Library Services Act'.

"SEC. 202. GENERAL DEFINITIONS.

"As used in this title:

"(1) COMMISSION.—The term 'Commission' means the National Commission on Libraries and Information Science established under section 3 of the National Commission on Libraries and Information Sciences Act (20 U.S.C. 1502).

"(2) DIRECTOR.—The term 'Director' means the Director of the Institute appointed under section 204.

"(3) INSTITUTE.—The term 'Institute' means the Institute of Museum and Library Services established under section 203.

"(4) MUSEUM BOARD.—The term 'Museum Board' means the National Museum Services Board established under section 275.

"SEC. 203. INSTITUTE OF MUSEUM AND LIBRARY SERVICES.

"(a) ESTABLISHMENT.—There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

"(b) OFFICES.—The Institute shall consist of an Office of Museum Services and an Office of Library Services. There shall be a National Museum Services Board in the Office of Museum Services.

"SEC. 204. DIRECTOR OF THE INSTITUTE.

"(a) APPOINTMENT.—

"(1) IN GENERAL.—The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

"(2) TERM.—The Director shall serve for a term of 4 years.

"(3) QUALIFICATIONS.—Beginning with the first individual appointed to the position of Director after the date of the enactment of the Government-Sponsored Enterprise Privatization Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after the date of enactment of the Government-Sponsored Enterprise Privatization Act of 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

"(b) COMPENSATION.—The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) DUTIES AND POWERS.—The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this title.

"(d) NONDELEGATION.—The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

"(e) COORDINATION.—The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services.

"SEC. 205. DEPUTY DIRECTORS.

"The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

"SEC. 206. PERSONNEL.

"(a) IN GENERAL.—The Director may, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

"(b) VOLUNTARY SERVICES.—The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"SEC. 207. CONTRIBUTIONS.

"The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be

paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special interest-bearing account to the credit of the Institute for the purposes specified in each case.

"Subtitle B—Library Services and Technology

"SEC. 211. SHORT TITLE.

"This subtitle may be cited as the 'Library Services and Technology Act'.

"SEC. 212. PURPOSE.

"It is the purpose of this subtitle—

"(1) to consolidate Federal library service programs;

"(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

"(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

"(4) to provide linkages among and between libraries; and

"(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

"SEC. 213. DEFINITIONS.

"As used in this subtitle:

"(1) INDIAN TRIBE.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) LIBRARY.—The term 'library' includes—

"(A) a public library;

"(B) a public elementary school or secondary school library;

"(C) an academic library;

"(D) a research library, which for the purposes of this subtitle means a library that—

"(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

"(ii) is not an integral part of an institution of higher education; and

"(E) a private library, but only if the State in which such private library is located determines that the library should be considered a library for purposes of this subtitle.

"(3) LIBRARY CONSORTIUM.—The term 'library consortium' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

"(4) STATE.—The term 'State', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(5) STATE LIBRARY ADMINISTRATIVE AGENCY.—The term 'State library administrative agency' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

"(6) STATE PLAN.—The term 'State plan' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subtitle, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subtitle, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subtitle.

"SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subtitle.

"(2) TRANSFER.—The Secretary of Education shall—

"(A) transfer any funds appropriated under the authority of paragraph (1) to the Director to enable the Director to carry out this subtitle; and

"(B) not exercise any authority concerning the administration of this title other than the transfer described in subparagraph (A).

"(b) FORWARD FUNDING.—

"(1) IN GENERAL.—To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subtitle are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

"(2) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subtitle (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

"(c) ADMINISTRATION.—Not more than 3 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subtitle.

"CHAPTER 1—BASIC PROGRAM REQUIREMENTS

"SEC. 221. RESERVATIONS AND ALLOTMENTS.

"(a) RESERVATIONS.—

"(1) IN GENERAL.—From the amount appropriated under the authority of section 214 for any fiscal year, the Director—

"(A) shall reserve 1½ percent to award grants in accordance with section 261; and

"(B) shall reserve 4 percent to award national leadership grants or contracts in accordance with section 262.

"(2) SPECIAL RULE.—If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) for the fiscal year succeeding the fiscal year for which the funds were so reserved.

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—From the sums appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

"(2) REMAINDER.—From the remainder of any sums appropriated under the authority of section 214 that are not reserved under subsection (a) and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 214 and not reserved under subsection (a) for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

"(C) SPECIAL RULE.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subtitle in accordance with the provisions of this subtitle that the Director determines are not inconsistent with this subparagraph.

"(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

"(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subtitle for any fiscal year that begins after September 30, 2001.

"(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

"(4) DATA.—The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

"SEC. 222. ADMINISTRATION.

"(a) IN GENERAL.—Not more than 4 percent of the total amount of funds received under this subtitle for any fiscal year by a State may be used for administrative costs.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to limit spending for evaluation costs under section 224(c) from sources other than this subtitle.

"SEC. 223. PAYMENTS; FEDERAL SHARE; AND MAINTENANCE OF EFFORT REQUIREMENTS.

"(a) PAYMENTS.—Subject to appropriations provided pursuant to section 214, the Director shall pay to each State library administrative agency having a State plan approved under section 224 the Federal share of the cost of the activities described in the State plan.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share shall be 66 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

"(c) MAINTENANCE OF EFFORT.—

"(1) STATE EXPENDITURES.—

"(A) REQUIREMENT.—

"(i) IN GENERAL.—The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this chapter shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

"(ii) CALCULATION.—Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

"(B) DECREASE IN FEDERAL SUPPORT.—If the amount made available under this subtitle for a fiscal year is less than the amount made available under this subtitle for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

"(2) LEVEL OF STATE EXPENDITURES.—The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subtitle. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

"(3) WAIVER.—The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"SEC. 224. STATE PLANS.

"(a) STATE PLAN REQUIRED.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under this subtitle, a State library administrative agency shall submit a State plan to the Director not later than April 1, 1997.

"(2) DURATION.—The State plan shall cover a period of 5 fiscal years.

"(3) REVISIONS.—If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

"(b) CONTENTS.—The State plan shall—

"(1) establish goals, and specify priorities, for the State consistent with the purposes of this subtitle;

"(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;

"(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

"(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

"(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

"(6) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

"(c) EVALUATION AND REPORT.—Each State library administrative agency receiving a grant under this subtitle shall independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

"(d) INFORMATION.—Each library receiving assistance under this subtitle shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c).

"(e) APPROVAL.—

"(1) IN GENERAL.—The Director shall approve any State plan under this subtitle that meets the requirements of this subtitle and provides satisfactory assurances that the provisions of such plan will be carried out.

"(2) PUBLIC AVAILABILITY.—Each State library administrative agency receiving a grant under this subtitle shall make the State plan available to the public.

"(3) ADMINISTRATION.—If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

"(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

"(B) offer the State library administrative agency the opportunity to revise its State plan;

"(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

"(D) provide the State library administrative agency the opportunity for a hearing.

"CHAPTER 2—LIBRARY PROGRAMS

"SEC. 231. GRANTS TO STATES.

"(a) IN GENERAL.—Of the funds provided to a State library administrative agency under section 214, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

"(1) establishing or enhancing electronic linkages among or between libraries and library consortia; and

"(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"(b) SPECIAL RULE.—Each State library administrative agency receiving funds under this chapter may apportion the funds available for the purposes described in subsection (a) between the two purposes described in paragraphs (1) and (2) of such subsection, as appropriate, to meet the needs of the individual State.

"CHAPTER 3—ADMINISTRATIVE PROVISIONS

"Subchapter A—State Requirements

"SEC. 251. STATE ADVISORY COUNCILS.

"Each State desiring assistance under this subtitle may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

"Subchapter B—Federal Requirements

"SEC. 261. SERVICES FOR INDIAN TRIBES.

"From amounts reserved under section 221(a)(1)(A) for any fiscal year the Director shall award grants to organizations primarily serving and representing Indian tribes to enable such organizations to carry out the activities described in section 231.

"SEC. 262. NATIONAL LEADERSHIP GRANTS OR CONTRACTS.

"(a) IN GENERAL.—From the amounts reserved under section 221(a)(1)(B) for any fiscal year the Director shall establish and carry out a program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants or contracts shall be used for activities that may include—

"(1) education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

"(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

"(3) preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

"(4) model programs demonstrating cooperative efforts between libraries and museums.

"(b) GRANTS OR CONTRACTS.—

"(1) IN GENERAL.—The Director may carry out the activities described in subsection (a) by awarding grants to, or entering into contracts with, libraries, agencies, institutions of higher education, or museums, where appropriate.

"(2) COMPETITIVE BASIS.—Grants and contracts under this section shall be awarded on a competitive basis.

"(c) SPECIAL RULE.—The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

"SEC. 263. STATE AND LOCAL INITIATIVES.

"Nothing in this subtitle shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subtitle, the determination of the best uses of the funds provided under this subtitle, shall be reserved for the States and their local subdivisions.

"Subtitle C—Museum Services

"SEC. 271. PURPOSE.

"It is the purpose of this subtitle—

"(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education, and with programs of nonformal education for all age groups;

"(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

"(3) to ease the financial burden borne by museums as a result of their increasing use by the public.

"SEC. 272. DEFINITIONS.

"As used in this subtitle:

"(1) MUSEUM.—The term 'museum' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis.

"(2) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"SEC. 273. MUSEUM SERVICES ACTIVITIES.

"(a) GRANTS.—The Director, subject to the policy direction of the Museum Board, may make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, through such activities as—

"(1) programs that enable museums to construct or install displays, interpretations, and exhibitions in order to improve museum services provided to the public;

"(2) assisting museums in developing and maintaining professionally trained or otherwise experienced staff to meet the needs of the museums;

"(3) assisting museums in meeting the administrative costs of preserving and maintaining the collections of the museums, exhibiting the collections to the public, and providing educational programs to the public through the use of the collections;

"(4) assisting museums in cooperating with each other in developing traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan;

"(5) assisting museums in the conservation of their collections;

"(6) developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and penal and other State institutions; and

"(7) model programs demonstrating cooperative efforts between libraries and museums.

"(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—

"(1) PROJECTS TO STRENGTHEN MUSEUM SERVICES.—The Director, subject to the policy direction of the Museum Board, is authorized to enter into contracts and cooperative agreements with appropriate entities, as determined by the Director, to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations acts.

"(2) LIMITATION ON AMOUNT.—The aggregate amount of financial assistance made available under this subsection for a fiscal year shall not exceed 15 percent of the amount appropriated under this subtitle for such fiscal year.

"(3) OPERATIONAL EXPENSES.—No financial assistance may be provided under this subsection to pay for operational expenses.

"(c) FEDERAL SHARE.—

"(1) 50 PERCENT.—Except as provided in paragraph (2), the Federal share described in subsections (a) and (b) shall be not more than 50 percent.

"(2) GREATER THAN 50 PERCENT.—The Director may use not more than 20 percent of the funds made available under this subtitle for a fiscal year to make grants under subsection (a), or enter into contracts or agreements under subsection (b), for which the Federal share may be greater than 50 percent.

"(d) REVIEW AND EVALUATION.—The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or entered into under this subtitle. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this subtitle shall not be subject to any review outside of the Institute.

"SEC. 274. AWARD.

"The Director, with the advice of the Museum Board, may annually award a National Award for Museum Service to outstanding museums that have made significant contributions in service to their communities.

"SEC. 275. NATIONAL MUSEUM SERVICES BOARD.

"(a) ESTABLISHMENT.—There is established in the Institute a National Museum Services Board.

"(b) COMPOSITION AND QUALIFICATIONS.—

"(1) COMPOSITION.—The Museum Board shall consist of the Director and 14 members appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The appointive members of the Museum Board shall be selected from among citizens of the United States—

"(A) who are members of the general public;

"(B) who are or have been affiliated with—

"(i) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

"(ii) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, and botanical gardens; and

"(C) who are recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

"(3) GEOGRAPHIC AND OTHER REPRESENTATION.—Members of the Museum Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum Board may not include, at any time, more than 3 members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums.

"(c) TERMS.—

"(1) IN GENERAL.—Each appointive member of the Museum Board shall serve for a term of 5 years, except that—

"(A) of the members first appointed, 3 shall serve for terms of 5 years, 3 shall serve for terms of 4 years, 3 shall serve for terms of 3 years, 3 shall serve for terms of 2 years, and 2 shall serve for terms of 1 year, as designated by the President at the time of nomination for appointment; and

"(B) any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

"(2) REAPPOINTMENT.—No member of the Museum Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

"(3) SERVICE UNTIL SUCCESSOR TAKES OFFICE.—Notwithstanding any other provision of this subsection, a member of the Museum Board shall serve after the expiration of the term of the member until the successor to the member takes office.

"(d) DUTIES AND POWERS.—The Museum Board shall have the responsibility to advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum services, including general policies with respect to—

"(1) financial assistance awarded under this subtitle for museum services; and

"(2) projects described in section 262(a)(4).

"(e) CHAIRPERSON.—The President shall designate 1 of the appointive members of the Museum Board as Chairperson of the Museum Board.

"(f) MEETINGS.—

"(1) IN GENERAL.—The Museum Board shall meet—

"(A) not less than 3 times each year, including—

"(i) not less than 2 times each year separately; and

"(ii) not less than 1 time each year in a joint meeting with the Commission, convened for purposes of making general policies with respect to financial assistance for projects described in section 262(a)(4); and

"(B) at the call of the Director.

"(2) VOTE.—All decisions by the Museum Board with respect to the exercise of the duties and powers of the Museum Board shall be made by a majority vote of the members of the Museum Board who are present. All decisions by the Commission and the Museum Board with respect to the policies described in paragraph (1)(A)(ii) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the Museum Board who are present.

"(g) QUORUM.—A majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official meetings of the Museum Board, but a lesser number of members may hold hearings. A majority of the members of the Commission and a majority of the members of the Museum Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the Museum Board.

"(h) COMPENSATION AND TRAVEL EXPENSES.—

"(1) COMPENSATION.—Each member of the Museum Board who is not an officer or employee of the Federal Government may be

compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 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 Museum Board. All members of the Museum Board who are officers or employees of the Federal Government shall serve without compensation in addition to compensation received for their services as officers or employees of the Federal Government.

"(2) TRAVEL EXPENSES.—The members of the Museum Board may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"(i) COORDINATION.—The Museum Board, with the advice of the Director, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

"SEC. 276. AUTHORIZATION OF APPROPRIATIONS.

"(a) GRANTS.—For the purpose of carrying out this subtitle, there are authorized to be appropriated to the Director $28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

"(b) ADMINISTRATION.—Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subtitle.

"(c) SUMS REMAINING AVAILABLE.—Sums appropriated pursuant to subsection (a) for any fiscal year shall remain available for obligation until expended.".

SEC. 202. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

(a) FUNCTIONS.—Section 5 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1504) is amended—

(1) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (a) the following:

"(b) The Commission shall have the responsibility to advise the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute of Museum and Library Services relating to library services, including—

"(1) general policies with respect to—

"(A) financial assistance awarded under the Museum and Library Services Act for library services; and

"(B) projects described in section 262(a)(4) of such Act; and

"(2) measures to ensure that the policies and activities of the Institute of Museum and Library Services are coordinated with other activities of the Federal Government.

"(c)(1) The Commission shall meet not less than 1 time each year in a joint meeting with the National Museum Services Board, convened for purposes of providing advice on general policy with respect to financial assistance for projects described in section 262(a)(4) of such Act.

"(2) All decisions by the Commission and the National Museum Services Board with respect to the advice on general policy described in paragraph (1) shall be made by a ⅔ majority vote of the total number of the members of the Commission and the National Museum Services Board who are present.

"(3) A majority of the members of the Commission and a majority of the members of the National Museum Services Board shall constitute a quorum for the conduct of business at official joint meetings of the Commission and the National Museum Services Board.".

(b) MEMBERSHIP.—Section 6 of the National Commission on Libraries and Information Science Act (20 U.S.C. 1505) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "Librarian of Congress" and inserting "Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),";

(B) in the second sentence—

(i) by striking "special competence or interest in" and inserting "special competence in or knowledge of"; and

(ii) by inserting before the period the following: "and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly";

(C) in the third sentence, by inserting "appointive" before "members"; and

(D) in the last sentence, by striking "term and at least" and all that follows and inserting "term."; and

(2) in subsection (b), by striking "the rate specified" and all that follows through "and while" and inserting "the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, United States Code, for each day (including traveltime) during which the members are engaged in the business of the Commission. While".

SEC. 203. TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES.

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS FROM THE INSTITUTE OF MUSEUM SERVICES AND THE LIBRARY PROGRAM OFFICE.—There are transferred to the Director of the Institute of Museum and Library Services established under section 203 of the Museum and Library Services Act—

(1) all functions that the Director of the Institute of Museum Services exercised before the date of enactment of this section (including all related functions of any officer or employee of the Institute of Museum Services); and

(2) all functions that the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education exercised before the date of enactment of this section and any related function of any officer or employee of the Department of Education.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Director of the Institute of Museum and Library Services may delegate any of the functions transferred to the Director of the Institute of Museum and Library Services by this section and any function transferred or granted to such Director of the Institute of Museum and Library Services after the effective date of this section to such officers and employees of the Institute of Museum and Library Services as the Director of the Institute of Museum and Library Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate, except that any delegation of any such functions with respect to libraries shall be made to the Deputy Director of the Office of Library Services and with respect to museums shall be made to the Deputy Director of the Office of Museum Services. No delegation of functions by the Director of the Institute of Museum and Library Services under this section or under any other provision of this section shall relieve such Director of the Institute of Museum and Library Services of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Director of the Institute of Museum and Library Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Institute of Museum and Library Services, and may establish, consolidate, alter, or discontinue such organizational entities in the Institute of Museum and Library Services as may be necessary or appropriate.

(f) RULES.—The Director of the Institute of Museum and Library Services may prescribe, in accordance with chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director of the Institute of Museum and Library Services determines to be necessary or appropriate to administer and manage the functions of the Institute of Museum and Library Services.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Institute of Museum and Library Services. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the purposes of this section.

(i) EFFECT ON PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except

special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee under this section.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day preceding the effective date of this section, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Institute of Museum and Library Services to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the Institute of Museum and Library Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Institute of Museum Services on the effective date of this section, with respect to functions transferred by this section. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Institute of Museum Services, or by or against any individual in the official capacity of such individual as an officer of the Institute of Museum Services, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Institute of Museum Services relating to a function transferred under this section may be continued by the Institute of Museum and Library Services with the same effect as if this section had not been enacted.

(k) TRANSITION.—The Director of the Institute of Museum and Library Services may utilize—

(1) the services of such officers, employees, and other personnel of the Institute of Museum Services with respect to functions transferred to the Institute of Museum and Library Services by this section; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Director of the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Director of the Institute of Museum and Library Services; and

(2) the Institute of Museum Services with regard to functions transferred under subsection (b), shall be deemed to refer to the Institute of Museum and Library Services.

(m) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Director of the Institute of Museum and Library Services shall prepare and submit to the appropriate committees of Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the effective date of this section, the Director of the Institute of Museum and Library Services shall submit to the appropriate committees of Congress the recommended legislation referred to under paragraph (1).

SEC. 204. SERVICE OF INDIVIDUALS SERVING ON DATE OF ENACTMENT.

Notwithstanding section 204 of the Museum and Library Services Act, the individual who was appointed to the position of Director of the Institute of Museum Services under section 205 of the Museum Services Act (as such section was in effect on the day before the date of enactment of this Act) and who is serving in such position on the day before the date of enactment of this Act shall serve as the first Director of the Institute of Museum and Library Services under section 204 of the Museum and Library Services Act (as added by section 201 of this title), and shall serve at the pleasure of the President.

SEC. 205. CONSIDERATION.

Consistent with title 5, United States Code, in appointing employees of the Office of Library Services, the Director of the Institute of Museum and Library Services shall give strong consideration to individuals with experience in administering State-based and national library and information services programs.

SEC. 206. TRANSITION AND TRANSFER OF FUNDS.

(a) TRANSITION.—The Director of the Office of Management and Budget shall take appropriate measures to ensure an orderly transition from the activities previously administered by the Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services under this title. Such measures may include the transfer of appropriated funds.

(b) TRANSFER.—The Secretary of Education shall transfer to the Director the amount of funds necessary to ensure the orderly transition from activities previously administered by the Director of the Office of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services. In no event shall the amount of funds transferred pursuant to the preceding sentence be less than $200,000.

TITLE III—EXTENSION OF PROGRAMS

SEC. 301. EXTENSION OF NATIONAL LITERACY ACT OF 1991.

(a) NATIONAL WORKFORCE LITERACY ASSISTANCE COLLABORATIVE.—Subsection (c) of section 201 of the National Literacy Act of 1991 (20 U.S.C. 1211–1(c)) is amended by striking "$5,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 1997.".

(b) FUNCTIONAL LITERACY AND LIFE SKILLS PROGRAM FOR STATE AND LOCAL PRISONERS.—Paragraph (3) of section 601(i) of the National Literacy Act of 1991 (20 U.S.C. 1211–2(i)) is amended by striking "$10,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 1997.".

SEC. 302. ADULT EDUCATION ACT AMENDMENTS.

The Adult Education Act (20 U.S.C. 1201 et seq.) is amended—

(1) in section 312—

(A) in each of subparagraphs (A) and (B) of paragraph (11), by moving the margins two ems to the right;

(B) in each of paragraphs (11) through (15), by moving the margins two ems to the right; and

(C) by adding at the end the following:

"(16) The term 'family literacy services' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family and that integrate all of the following activities:

"(A) Interactive literacy activities between parents and their children.

"(B) Training for parents on how to be the primary teacher for their children and full partners in the education of their children.

"(C) Parent literacy training.

"(D) An age-appropriate education program for children.";

(2) in section 313(a), by striking "the fiscal year 1991," and all that follows through "1995" and inserting "fiscal year 1997";

(3) in section 321, by inserting "and family literacy services" after "and activities";

(4) in the first sentence of section 322(a)(1), by inserting "and family literacy services" after "adult education programs";

(5) in section 341(a), by inserting "and for family literacy services" after "adult education";

(6) in section 356(k), by striking "$25,000,000" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 1997.";

(7) in section 371(e)(1), by striking "the fiscal year 1991," and all that follows through the period and inserting "fiscal year 1997.";

(8) in section 384, by striking subsections (c) through (n); and

(9) by adding at the end the following:

"SEC. 386. NATIONAL INSTITUTE FOR LITERACY.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established the National Institute for Literacy (in this section referred to as the 'Institute'). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the 'Interagency Group'). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services whose purpose is determined by the Interagency Group to be related to the purpose of the Institute.

"(2) OFFICES.—The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

"(3) BOARD RECOMMENDATIONS.—The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the 'Board') established under subsection (d) in planning the goals of the Institute and in the implementation of any programs to achieve such goals.

"(4) DAILY OPERATIONS.—The daily operations of the Institute shall be carried out by the Director of the Institute appointed under subsection (g).

"(b) DUTIES.—

"(1) IN GENERAL.—The Institute shall improve the quality and accountability of the adult basic skills and literacy delivery system by—

"(A) providing national leadership for the improvement and expansion of the system for delivery of literacy services;

"(B) coordinating the delivery of such services across Federal agencies;

"(C) identifying effective models of basic skills and literacy education for adults and families that are essential to success in job training, work, the family, and the community;

"(D) supporting the creation of new methods of offering improved literacy services;

"(E) funding a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

"(i) encouraging the coordination of literacy services;

"(ii) carrying out evaluations of the effectiveness of adult education and literacy activities;

"(iii) enhancing the capacity of State and local organizations to provide literacy services; and

"(iv) serving as a reciprocal link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

"(F) supporting the development of models at the State and local level of accountability systems that consist of goals, performance measures, benchmarks, and assessments that can be used to improve the quality of adult education and literacy activities;

"(G) providing information, and other program improvement activities to national, State, and local organizations, such as—

"(i) improving the capacity of national, State, and local public and private organizations that provide literacy and basic skills services, professional development, and technical assistance, such as the State or regional adult literacy resource centers referred to in subparagraph (E); and

"(ii) establishing a national literacy electronic database and communications network;

"(H) working with the Interagency Group, Federal agencies, and the Congress to ensure that such Group, agencies, and the Congress have the best information available on literacy and basic skills programs in formulating Federal policy with respect to the issues of literacy, basic skills, and workforce and career development; and

"(I) assisting with the development of policy with respect to literacy and basic skills.

"(2) GRANTS, CONTRACTS, AND AGREEMENTS.—The Institute may make grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

"(c) LITERACY LEADERSHIP.—

"(1) FELLOWSHIPS.—The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances as the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

"(2) USE OF FELLOWSHIPS.—Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

"(3) INTERNS AND VOLUNTEERS.—The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, United States Code, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

"(d) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is established a National Institute for Literacy Advisory Board. The Board shall consist of 10 individuals appointed by the President, with the advice and consent of the Senate, from individuals who—

"(i) are not otherwise officers or employees of the Federal Government; and

"(ii) are representative of entities or groups described in subparagraph (B).

"(B) ENTITIES OR GROUPS DESCRIBED.—The entities or groups referred to in subparagraph (A) are—

"(i) literacy organizations and providers of literacy services, including—

"(I) nonprofit providers of literacy services;

"(II) providers of programs and services involving English language instruction; and

"(III) providers of services receiving assistance under this title;

"(ii) businesses that have demonstrated interest in literacy programs;

"(iii) literacy students;

"(iv) experts in the area of literacy research;

"(v) State and local governments; and

"(vi) representatives of employees.

"(2) DUTIES.—The Board—

"(A) shall make recommendations concerning the appointment of the Director and staff of the Institute;

"(B) shall provide independent advice on the operation of the Institute; and

"(C) shall receive reports from the Interagency Group and the Director.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(4) TERMS.—

"(A) IN GENERAL.—Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which ⅓ of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

"(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

"(5) QUORUM.—A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

"(6) ELECTION OF OFFICERS.—The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

"(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

"(e) GIFTS, BEQUESTS, AND DEVISES.—The Institute may accept, administer, and use gifts or donations of services, money, or property, both real and personal.

"(f) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(g) DIRECTOR.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

"(h) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the maximum rate payable under section 5376 of title 5, United States Code.

"(i) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(j) REPORT.—The Institute shall submit a report biennially to the Committee on Economic and Educational Opportunities of the

House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

"(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

"(2) a description of how plans for the operation of the Institute for the succeeding two fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

"(3) any additional minority, or dissenting views submitted by members of the Board.

"(k) FUNDING.—Any amounts appropriated to the Secretary of Education, the Secretary of Labor, or the Secretary of Health and Human Services for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this section.".

SEC. 303. EXTENSION OF CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

Subsection (a) of section 3 of the Carl D. Perkins Vocational and Applied Technology Act is amended by striking "appropriated" and all that follows through "1995" and inserting "appropriated for fiscal year 1997 such sums as may be necessary".

TITLE IV—REPEALS AND CONFORMING AMENDMENTS

SEC. 401. REPEALS.

(a) GENERAL IMMEDIATE REPEALS.—The following provisions are repealed:

(1) Section 204 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1255a note).

(2) Title II of Public Law 95–250 (92 Stat. 172).

(3) The Library Services and Construction Act (20 U.S.C. 351 et seq.).

(4) Part F of the Technology for Education Act of 1994 (contained in title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7001 et seq.)).

(5) Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211).

(6) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.), except subtitle B and section 738 of such title (42 U.S.C. 11431 et seq. and 11448).

(b) IMMEDIATE REPEAL OF HIGHER EDUCATION ACT OF 1965 PROVISIONS.—The following provisions of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) are repealed:

(1) Part B of title I (20 U.S.C. 1011 et seq.), relating to articulation agreements.

(2) Part C of title I (20 U.S.C. 1015 et seq.), relating to access and equity to education for all Americans through telecommunications.

(3) Title II (20 U.S.C. 1021 et seq.), relating to academic libraries and information services.

(4) Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a–31 et seq.), relating to presidential access scholarships.

(5) Chapter 4 of subpart 2 of part A of title IV (20 U.S.C. 1070a–41 et seq.), relating to model program community partnerships and counseling grants.

(6) Section 409B (20 U.S.C. 1070a–52), relating to an early awareness information program.

(7) Chapter 8 of subpart 2 of part A of title IV (20 U.S.C. 1070a–81), relating to technical assistance for teachers and counselors.

(8) Subpart 8 of part A of title IV (20 U.S.C. 1070f), relating to special child care services for disadvantaged college students.

(9) Section 428J (20 U.S.C. 1078–10), relating to loan forgiveness for teachers, individuals performing national community service and nurses.

(10) Section 486 (20 U.S.C. 1093), relating to training in financial aid services.

(11) Subpart 1 of part H of title IV (20 U.S.C. 1099a et seq.) relating to State postsecondary review programs.

(12) Part A of title V (20 U.S.C. 1102 et seq.), relating to State and local programs for teacher excellence.

(13) Part B of title V (20 U.S.C. 1103 et seq.), relating to national teacher academies.

(14) Subpart 1 of part C of title V (20 U.S.C. 1104 et seq.), relating to Paul Douglas teacher scholarships.

(15) Subpart 3 of part C of title V (20 U.S.C. 1106 et seq.), relating to the teacher corps.

(16) Subpart 3 of part D of title V (20 U.S.C. 1109 et seq.), relating to class size demonstration grants.

(17) Subpart 4 of part D of title V (20 U.S.C. 1110 et seq.), relating to middle school teaching demonstration programs.

(18) Subpart 1 of part E of title V (20 U.S.C. 1111 et seq.), relating to new teaching careers.

(19) Subpart 1 of part F of title V (20 U.S.C. 1113), relating to the national mini corps programs.

(20) Section 586 (20 U.S.C. 1114), relating to demonstration grants for critical language and area studies.

(21) Section 587 (20 U.S.C. 1114a), relating to development of foreign languages and cultures instructional materials.

(22) Subpart 4 of part F of title V (20 U.S.C. 1116), relating to faculty development grants.

(23) Section 597 and subsection (b) of section 599 (20 U.S.C. 1117a and 1117c), relating to early childhood staff training and professional enhancement.

(24) Section 605 (20 U.S.C. 1124a), relating to intensive summer language institutes.

(25) Section 607 (20 U.S.C. 1125a), relating to periodicals and other research material published outside the United States.

(26) Part A of title VII (20 U.S.C. 1132b et seq.), relating to improvement of academic and library facilities.

(27) Title VIII (20 U.S.C. 1133 et seq.), relating to cooperative education programs.

(28) Part D of title X (20 U.S.C. 1135f), relating to the Dwight D. Eisenhower leadership program.

(c) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1986 PROVISIONS.—The following provisions of the Higher Education Amendments of 1986 are repealed:

(1) Part D of title XIII (20 U.S.C. 1029 note), relating to library resources.

(2) Part E of title XIII (20 U.S.C. 1221–1 note), relating to a National Academy of Science study.

(3) Part B of title XV (20 U.S.C. 4441 et seq.), relating to Native Hawaiian and Alaska Native culture and art development.

(d) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1974 PROVISION.—Section 519 of the Education Amendments of 1974 (20 U.S.C. 1221i) is repealed.

(e) IMMEDIATE REPEAL OF EDUCATION AMENDMENTS OF 1992 PROVISIONS.—The following provisions of the Higher Education Amendments of 1992 are repealed:

(1) Part F of title XIII (25 U.S.C. 3351 et seq.), relating to American Indian postsecondary economic development scholarships.

(2) Part G of title XIII (25 U.S.C. 3371), relating to American Indian teacher training.

(3) Section 1406 (20 U.S.C. 1221e–1 note), relating to a national survey of factors associated with participation.

(4) Section 1409 (20 U.S.C. 1132a note), relating to a study of environmental hazards in institutions of higher education.

(5) Section 1412 (20 U.S.C. 1101 note), relating to a national job bank for teacher recruitment.

(6) Part B of title XV (20 U.S.C. 1452 note), relating to a national clearinghouse for postsecondary education materials.

(7) Part C of title XV (20 U.S.C. 1101 note), relating to a school-based decisionmakers demonstration program.

(8) Part D of title XV (20 U.S.C. 1145h note), relating to grants for sexual offenses education.

(9) Part E of title XV (20 U.S.C. 1070 note), relating to Olympic scholarships.

(10) Part G of title XV (20 U.S.C. 1070a–11 note), relating to advanced placement fee payment programs.

SEC. 402. CONFORMING AMENDMENTS.

(a) REFERENCES TO SECTION 204 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—The table of contents for the Immigration Reform and Control Act of 1986 is amended by striking the item relating to section 204 of such Act.

(b) REFERENCES TO TITLE II OF PUBLIC LAW 95–250.—Section 103 of Public Law 95–250 (16 U.S.C. 791) is amended—

(1) by striking the second sentence of subsection (a); and

(2) by striking the second sentence of subsection (b).

(c) REFERENCES TO LIBRARY SERVICES AND CONSTRUCTION ACT.—

(1) TECHNOLOGY FOR EDUCATION ACT OF 1994.—The Technology for Education Act of 1994 (20 U.S.C. 6801 et seq.) is amended in section 3113(10) by striking "section 3 of the Library Services and Construction Act;" and inserting "section 213 of the Library Services and Technology Act;".

(2) OMNIBUS EDUCATION RECONCILIATION ACT OF 1981.—Section 528 of the Omnibus Education Reconciliation Act of 1981 (20 U.S.C. 3489) is amended—

(A) by striking paragraph (12); and

(B) by redesignating paragraphs (13) through (15) as paragraphs (12) through (14), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 3113(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6813(10)) is amended by striking "section 3 of the Library Services and Construction Act" and inserting "section 213 of the Library Services and Technology Act".

(4) COMMUNITY IMPROVEMENT VOLUNTEER ACT OF 1994.—Section 7305 of the Community Improvement Volunteer Act of 1994 (40 U.S.C. 276d–3) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively.

(5) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking "Library Services and Construction Act;".

(6) DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking "title II of the Library Services and Construction Act;".

(7) PUBLIC LAW 87–688.—Subsection (c) of the first section of the Act entitled "An Act to extend the application of certain laws to American Samoa", approved September 25, 1962 (48 U.S.C. 1666(c)) is amended by striking "the Library Services Act (70 Stat. 293; 20 U.S.C. 351 et seq.),".

(8) COMMUNICATIONS ACT OF 1934.—Paragraph (4) of section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)(4)) is amended by striking "library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.)" and inserting "library or library consortium not eligible for assistance from a State library administrative agency under the Library Services and Technology Act".

(d) REFERENCE TO SCHOOL DROPOUT ASSISTANCE ACT.—Section 441 of the General Education Provisions Act (42 U.S.C. 1232d), as amended by section 261(f) of the Improving America's Schools Act of 1994, is further amended by striking "(subject to the provisions of part C of title V of the Elementary and Secondary Education Act of 1965)".

(e) REFERENCES TO TITLE VII OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—

(1) TABLE OF CONTENTS.—The table of contents of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1142 et seq.) is amended by striking the items relating to title VII of such Act, except subtitle B and section 738 of such title.

(2) TITLE 31, UNITED STATES CODE.—Section 6703(a) of title 31, United States Code, is amended—

(A) by striking paragraph (15); and

(B) by redesignating paragraphs (16) through (19) as paragraphs (15) through (18), respectively.

(f) REFERENCES TO INSTITUTE OF MUSEUM SERVICES.—

(1) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following:

"Director of the Institute of Museum Services." and inserting the following:

"Director of the Institute of Museum and Library Services.".

(2) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 301 of the Department of Education Organization Act (20 U.S.C. 3441) is amended—

(A) in subsection (a)—

(i) by striking paragraph (5); and

(ii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(B) in subsection (b)—

(i) by striking paragraph (4); and

(ii) by redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

(3) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(A) Sections 2101(b), 2205(c)(1)(D), 2208(d)(1)(H)(v), and 2209(b)(1)(C)(vi), and subsections (d)(6) and (e)(2) of section 10401 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6621(b), 6645(c)(1)(D), 6648(d)(1)(H)(v), 6649(b)(1)(C)(vi), and 8091 (d)(6) and (e)(2)) are amended by striking "the Institute of Museum Services" and inserting "the Institute of Museum and Library Services".

(B) Section 10412(b) of such Act (20 U.S.C. 8102(b)) is amended—

(i) in paragraph (2), by striking "the Director of the Institute of Museum Services," and inserting "the Director of the Institute of Museum and Library Services,"; and

(ii) in paragraph (7), by striking "the Director of the Institute of Museum Services," and inserting "the Director of the Institute of Museum and Library Services,".

(C) Section 10414(a)(2)(B) of such Act (20 U.S.C. 8104(a)(2)(B)) is amended by striking clause (iii) and inserting the following new clause:

"(iii) the Institute of Museum and Library Services.".

(g) REFERENCES TO OFFICE OF LIBRARIES AND LEARNING RESOURCES.—Section 413(b)(1) of the Department of Education Organization Act (20 U.S.C. 3473(b)(1)) is amended—

(1) by striking subparagraph (H); and

(2) by redesignating subparagraphs (I) through (M) as subparagraphs (H) through (L), respectively.

(h) REFERENCES TO STATE POSTSECONDARY REVIEW ENTITY PROGRAMS.—The Higher Education Act of 1965 is amended—

(1) in section 356(b)(2) (20 U.S.C. 10696(b)), by striking "II,";

(2) in section 453(c)(2) (20 U.S.C. 1087c(c)(2))—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) through (H) as subparagraphs (E) through (G), respectively;

(3) in section 487(a)(3) (20 U.S.C. 1094(a)(3)), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(4) in section 487(a)(15) (20 U.S.C. 1094(a)(15)), by striking "the Secretary of Veterans Affairs, and State review entities under subpart 1 of part H" and inserting "and the Secretary of Veterans Affairs";

(5) in section 487(a)(21) (20 U.S.C. 1094(a)(21)), by striking ", State postsecondary review entities,";

(6) in section 487(c)(1)(A)(i) (20 U.S.C. 1094(c)(1)(A)(i)), by striking "State agencies, and the State review entities referred to in subpart 1 of part H" and inserting "and State agencies";

(7) in section 487(c)(4) (20 U.S.C. 1094(c)(4)), by striking ", after consultation with each State review entity designated under subpart 1 of part H,";

(8) in section 487(c)(5) (20 U.S.C. 1094(c)(5)), by striking "State review entities designated under subpart 1 of part H,";

(9) in section 496(a)(7) (20 U.S.C. 1099b(a)(7)), by striking "and the appropriate State postsecondary review entity";

(10) in section 496(a)(8) (20 U.S.C. 1099b(a)(8)), by striking "and the State postsecondary review entity of the State in which the institution of higher education is located";

(11) in section 498(g)(2) (20 U.S.C. 1099c(g)(2)), by striking everything after the first sentence;

(12) in section 498A(a)(2)(D) (20 U.S.C. 1099c–1(a)(2)(D)), by striking "by the appropriate State postsecondary review entity designated under subpart 1 of this part or";

(13) in section 498A(a)(2) (20 U.S.C. 1099c–1(a)(2))—

(A) by inserting "and" after the semicolon at the end of subparagraph (E);

(B) by striking subparagraph (F); and

(C) by redesignating subparagraph (G) as subparagraph (F); and

(14) in section 498A(a)(3) (20 U.S.C. 1099c–1(a)(3))—

(A) by inserting "and" after the semicolon at the end of subparagraph (C);

(B) by striking "; and" at the end of subparagraph (D) and inserting a period; and

(C) by striking subparagraph (E).

The SPEAKER pro tempore (Ms. GREENE of Utah). Pursuant to the rule, the gentleman from California [Mr. MCKEON] and the gentleman from Missouri [Mr. CLAY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. MCKEON].

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

Madam Speaker, I rise today in support of H.R. 1720, the Government Sponsored Enterprise Privatization Act of 1996.

This important legislation will: privatize two government sponsored enterprises, Sallie Mae and Connie Lee; eliminate over 40 unfunded higher education programs including the State Postsecondary Review Entities or SPREE's; consolidate and improve Federal library and museum programs; and extend for 1 year the National Literacy Act, the Adult Education and Literacy Act, and the Carl D. Perkins Vocational and Applied Technology Education Act, which otherwise will expire on September 30 of this year.

I would like to focus my remarks on the higher education provisions in this legislation, and in particular the privatization of Sallie Mae and Connie Lee.

The Student Loan Marketing Association, or Sallie Mae, was established in 1972 under a Federal charter authorized by part B of title IV of the Higher Education Act. At that time, there was a tremendous need for a secondary market that would purchase student loans from lenders, freeing up capital so that those lenders could continue to make student loans. Under it Federal charter, Sallie Mae gained certain advantages, including the ability to raise large amounts of capital in a cost effective way. People across the nation invested in this public-private partnership, knowing that their investment was also fostering access to higher education.

However, times have changed. Today, there is an extremely competitive secondary market for student loans, and the practice of securitization has made it far easier for financial institutions to raise capital for student loans. Now there is ample private capital available for student loans, and virtually every eligible student has access to student loans. The Federal charter which initially helped Sallie Mae assist students is now hampering Sallie Mae's ability to put its expertise to work in the private market to provide services outside of the student loan arena. Clearly the time has come when it is advantageous to both the taxpayer and Sallie Mae to allow Sallie Mae to become a fully private company with no Federal ties and no government sponsored advantages.

The legislation before us today gives Sallie Mae's stockholders the right to vote to reorganize and become a private company. Upon voting to reorganize, the existing Government Sponsored Enterprise [GSE] will continue to purchase student loans until September 30, 2007. On September 30, 2008, the

GSE will dissolve, and 1 year later the charter legislation found in the Higher Education Act will be repealed. In the event Sallie Mae's stockholders vote against reorganization, Sallie Mae will have until July 1, 2013 to wind down its business and dissolve the GSE.

In privatizing Sallie Mae, both the taxpayer and Sallie Mae are clearly winners. Sallie Mae is freed from a burdensome Federal charter and allowed to apply its expertise to compete in new markets. And, as Sallie Mae profits, so will the taxpayer. Upon privatization, Sallie Mae will be required to pay for the use of the Sallie Mae name. In addition, the Government will receive stock warrants from Sallie Mae. If a new and private Sallie Mae is successful and the price of its stock rises, the Treasury will be able to cash in these warrants, and the taxpayer will profit along with the new company.

As with Sallie Mae, the College Construction Loan Insurance Association, or Connie Lee, is another example of a successful public-private partnership which has served its purpose. Connie Lee was created by Congress under title VII of the Higher Education Amendments of 1986. At that time, the deterioration of physical infrastructure such as buildings and physical plants was a pressing problem for institutions of higher education, and financing facilities improvements was an option only for schools of the highest credit caliber. Connie Lee was created to underwrite the financing of these needed improvements; leveraging large amounts of capital with little risk to the government.

However, Connie Lee has never enjoyed the advantages of most government sponsored enterprises. In fact, the only Government help Connie Lee has received was start-up capital, in return for which Government received stock in Connie Lee. And, the law which created Connie Lee also narrowly limited the business activities which Connie Lee could pursue. Clearly, Connie Lee was always meant to be a private company.

For Connie Lee, privatization means the ability to determine its own destiny. Privatization will allow Connie Lee to use its expertise in facilities underwriting to help secure funding for elementary and secondary schools, higher education facilities, and local municipal projects. In return, the taxpayer is relieved of any implicit risk, should Connie Lee have future financial difficulties.

This legislation simply repeals the authorizing legislation which created Connie Lee, thereby freeing Connie Lee of from the restrictions of the Higher Education Act which limit the types of business in which Connie Lee can engage. The Treasury is directed to sell the stock currently owned by the U.S. Government within a set period of time in order to fully sever all Federal ties. In the event that the Treasury Department is unable to sell this stock, this legislation requires Connie Lee to buy it back at a price that is fair to both Connie Lee and the taxpayer. Connie Lee will no longer have any Federal charter or any ties to the Federal Government.

Privatizing Sallie Mae and Connie Lee is simply good government for the 1990's. This legislation frees the American taxpayer from subsidizing activities which will flourish long after government sponsorship has ceased. It also shows a willingness on the part of this Congress to take a public-private partnership and turn it into a fully private venture when Government support is no longer necessary. This legislation represents a carefully crafted compromise between Connie Lee and Sallie Mae, the administration, and the potential competitors of these newly privatized firms. In the process, it paves the way to a future of smaller, less intrusive government. Both of these companies want to be fully private firms. It is time for us as a Congress to sever our ties to them.

In addition to privatizing two Government sponsored enterprises, the legislation before us today begins to streamline the Higher Education Act by eliminating over 40 programs which are completely unfunded. I am pleased to note that among these programs is the State Postsecondary Review Entities, or SPREEs, which creates excessive and burdensome paperwork requirements for schools, represents an unwarranted State intrusion into their campuses, and in some cases poses a threat to their educational missions. As with the SPREEs, all of these programs were enacted with the best of intentions. However, eliminating these unfunded provisions will simplify our higher education law and help reduce the size of government.

Unfortunately, the legislation before us today represents only a fraction of the reform in the area of job training and education that I, along with other members on the Opportunities Committee, worked so hard in moving forward during the last 2 years. Under H.R. 1617, otherwise referred to as the Careers Act, over 120 programs would have been consolidated into block grants to States and localities; communities would have had more flexibility to target resources where they were most needed; and thousands of Americans would have been able to secure training vouchers in order to upgrade their skills at educational institutions of their choosing. Unfortunately, change is always difficult, and there was a ground swell of support for the status quo—which is why today we are able to move only a small portion of the original Careers legislation. But let me make this very clear. I fully intend to continue this endeavor. I will push forward with a job training system which provides flexibility to States; maintains accountability and empowers individuals to learn.

Madam Speaker, the Government Sponsored Enterprise Privatization Act is straight-forward, commonsense legislation. It represents a modest but earnest effort to reduce the size and scope of government, and it does so in a way that benefits both the taxpayer and private enterprise. This legislation does not cost the government or the taxpayer a dime, and in fact it will save money, but it will also pave the way to a future of smaller, less intrusive government. I urge my colleagues to support this legislation and vote "yes" on H.R. 1720.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I reluctantly rise in support of H.R. 1720 which provides straight reauthorizations for three education programs scheduled to expire at the end of this year. Those programs are the National Literacy Act, the Adult Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act. The 1-year extensions included in this bill will help add some certainty to these programs as they continue to compete for funding through the appropriations process.

In addition, the legislation includes changes to other programs that were worked out through bipartisan negotiations involving both the House and the Senate earlier this year.

This bill provides for the privatization of two Government-sponsored enterprises, Sallie Mae and Connie Lee. I have already voted in support of privatization and will do so again today, but, as I said, with reluctance. Let me explain my apprehension.

Last Thursday, in response to a request by a member of my staff for harmless information from Sallie Mae regarding privatization revenue, Sallie Mae mistakenly faxed him a document which strongly suggests possible partisan work by Sallie Mae officials on behalf of the Republicans.

There are at least two very disturbing things about the document. First, the document is referred to as a "candidate's package," and it is a highly charged, partisan document that will help Republicans attack the direct loan program and gives them ammunition to defend themselves against the accurate charges that they have tried to cut student loans.

The second alarming thing about the fax is that it includes a cover page showing that the document was sent to a Republican representative, the gentleman from Virginia, Mr. TOM DAVIS, by one of Sallie Mae's House lobbyists. That fax page has a note on it to Mr. DAVIS that says, and I quote, "Here's the full candidate's package." Other

details about this bizarre and potentially illegal activity are described in this morning's Washington Post.

However, I might say in defense of Sallie Mae that the president and chief executive officer wrote a letter to me dated September 18, where he says that, and I quote, "The document which I have subsequently read is completely inappropriate in its language and tone, and I am at a loss to express my disappointment that this should have happened. This material was not sanctioned nor reviewed by either myself or senior management."

Also, the chairman of the board wrote to President Clinton and he noted that he had directed that an internal investigation be conducted and that appropriate disciplinary action be taken against those individuals responsible for this document.

Madam Speaker, I think that the appropriate agencies and congressional committees have an obligation to fully investigate this matter, and until that happens, a dark cloud will hang over the issue of Sallie Mae's privatization.

Madam Speaker, I reserve the balance of my time.

Mr. MCKEON. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a strong supportive member of the committee.

Mr. GUNDERSON. Madam Speaker, I regret we are not here passing a comprehensive careers bill. I regret, like Mr. CLAY, that there was any political activity that was in any way involved in this, and I think we all ought to make sure that does not happen again.

But having said all that, I rise in strong support of this bill because if this is the best that we can do this session, then this is exactly what we should do.

Many of us are aware that we tried to define priorities in this Congress, balancing the budget, figuring out what programs ought to still be a primary Federal role and which ones ought not.

I think there is little doubt in this body on a bipartisan basis that we have come to that point in time when Sallie Mae and Connie Lee no longer justify being Government-sponsored enterprises. More than that, they do not want to continue to be Government-sponsored enterprises constrained by those restrictions. And, more than that, by privatizing them, we actually can make some money that we can direct toward other human resource programs that are so important.

□ 1330

So we have done that in this bill, we have done it with Sallie Mae over a period of time, making sure that before the year 2005 they would continue to use Sallie Mae for its primary purposes. Any other business activities would have to occur by a separately created business enterprise.

Likewise with Connie Lee. We have made it clear that, as we look at the changing dynamics in school construction certainly on the higher education level, that they ought to be freed up once they disavow themselves of any Federal Government bonds to go into that private sector and provide that kind of insurance.

But this bill also does some other things that everyone ought to be for. For example, we not only reauthorize the library and museum programs, but we move them into important incentives for distance learning and the Internet use. We target funds for the disabled and the illiterate, and we limit administrative expenses so that more dollars can actually be spent on services and delivery of services to people.

Finally, as was mentioned by our leader, the gentleman from California [Mr. MCKEON], we do important things in adult education and literacy. I encourage all of my colleagues to vote for this bill.

Mr. CLAY. Madam Speaker, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Madam Speaker, I rise in support of this legislation. As all of us are aware, the existence of the direct student loan program is limiting the market for guaranteed student loans. Sallie Mae's restrictive Federal charter provides it with no viable option for replacing business loss to direct lending and to other student loan financing vehicles and to the other 40 or more secondary markets. These factors dim Sallie Mae's future financial prospects. Sallie Mae's privatization will relieve taxpayers of over $50 billion in implicit liabilities.

On September 20, in a speech in Portland, OR, President Clinton said, and I quote:

> We're going to privatize organizations that can now work better in the private sector, like Sallie Mae. We've got the direct student loan program. They need to be able to do some other things as well.

In return for its privatization, Sallie Mae will pay to the Government $5 million for the use of the Sallie Mae name and issue 500,000 stock warrants to the Government, allowing taxpayers to benefit from the future success of the fully private Sallie Mae; subsidizing an effort that will no longer need subsidizing; and making the Government more efficient.

Madam Speaker, I urge the support of the bill.

Mr. MCKEON. Madam Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Madam Speaker, I thank my colleague from California for yielding me this time and congratulate him and also the chairman of the full committee, the gentleman from Pennsylvania [Mr. GOODLING] for this important piece of legislation on privatizing Sallie Mae.

When the Speaker asked me at the beginning of the last session of Congress to lay out a number of targets of opportunity for privatization, this was high on everyone's list, and we have actually had a fair amount of success this Congress with the naval petroleum reserves and selling off the United States Enrichment Corporation, getting the National Weather Service out in some specialty crop forecasting, asking the IRS to use private debt collection firms to augment its collection of outstanding taxpayer bills. But this piece of legislation today I think is extraordinarily important for one major reason, and that is for the first time in history we have a Government-sponsored enterprise stepping forward and saying we no longer want any ties with the Government; we want the ability to stand on our own.

And it makes sense because when Sallie Mae was first established in 1972 to create a secondary market for federally guaranteed student loans, there was a huge shortage in the marketplace. But since that time there are now 47 different participants and thousands of lenders nationwide who are now originating loans and financing them in a variety of ways.

Madam Speaker, Sallie Mae at this point is essentially handicapped from being able to enter new lines of business. It is a Government-sponsored enterprise which is withering on the vine. Today we will get the Government regulations out of the way and allow Sallie Mae and also Connie Lee to compete in the private sector, and perhaps fundamentally more important, we will remove nearly $50 billion, that is $50 billion, in implicit liabilities now insured by U.S. taxpayers.

I know that my colleagues on the Committee on Economic and Educational Opportunities were disappointed that they could not move forward a comprehensive career bill, but I think at the end of the day, privatizing Sallie Mae is a tremendous accomplishment for both the committee itself and also this Congress as a whole.

Mr. CLAY. Madam Speaker, I yield 4 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Madam Speaker, I rise to sort of prick the Congress' conscience about some of the things that happen in H.R. 1720.

I was one of the 79 people on this floor who voted against this bill when it came before us before, and today, as I read the conference report on the Privatization Act, I do not see too many changes in the concerns which I had the very first time.

I voted against the bill at that time not because of the Sallie Mae situation, in that I thought that was a progressive move to try to consolidate and to try to make the entire program move more smoothly, but I cannot sit here and not tell my colleagues that some of the things that they left out of

this bill which were so appealing and so begged for in their committee, they still did not make any changes this time.

First of all, I disagree vehemently about the way they decided to close out some of the programs which are currently funded as if they were just by Topsy, be able to adjust themselves to the changes which they have made or did not make in 1790 that were so many.

First of all, I want to give my colleagues just a little bit of information. I worked in higher education for 40 odd years straight through, and I saw how these Federal programs worked as far as the scholarship programs, financial aid, all of them worked. Many of them worked very haphazardly, and many students were left out, but at least we did much better than we are doing in 1720 because in 1720 we are stopping most of these programs; I think about 40 of them have been eliminated. I may have that figure wrong, but about 53 of them have been eliminated according to their report here.

Now I call Members' attention to the fellowships which allow many students to not be able to continue. I also call their attention to the fact that they have completely ignored the needs of disabled students who desire and who really must have some access to higher education. Disabled students have their rights. They passed the American Disabilities Act some time ago, so these disabled students really need the rights which they had in the first in the beginning, and they decided to eliminate those at this time. They repeal the development grants which would allow faculty people to be trained so that they could work with disabled students. There are many, many disabled students throughout the colleges and institutions in this country could benefit if they had faculty members who were trained to the point that they could help these students. Disabled students, I want my colleagues to understand, desire and need the ability to have good teaching and good instruction as well as any other students. So they do need teachers who are trained to teach them how to read, just as one would any other students.

I thought some of the dissenting views at the back of this bill really incorporated the kinds of things that I am calling to my colleagues' attention this morning, and there will be others this morning who will disagree and not support this bill, not because of the privatization of Sallie Mae. That is not why. But they will because they failed to pay any attention to the needs of students throughout this country.

Now if it were not for some of the minority education programs that they have funded in the past, many minorities and women would not have received postgraduate education. It is because they really received some Federal aid in terms of education. So there is a reciprocal reward for people having received graduate education and how to be able to train women to teach women and to do minorities and to allow them to get the professional training and graduate training which they need to carry this on.

I could go on and on because of the 53 programs that they cut out, but I cannot sit down without appealing a little bit for the libraries of this country. My colleagues have heard, and I know my time is out so I will say, by their repealing 53 programs, they made no attempt to put them back is not a good thing.

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

Madam Speaker, just in response to my dear friend from Florida, let me just say that this maybe is a different version of the bill than she has seen. Of the 41 programs on the list that we have in this bill, four of them did receive a total of $8.8 million in fiscal year 1995. However, in 1996 the administration did not request any funds for these four programs nor were funds requested for fiscal year 1997, and none were provided. So there is no funding for any of the programs that we have cut.

Madam Speaker, I yield 1½ minutes to the gentleman from Illinois [Mr. HASTERT] who has been very supportive in getting this bill to the floor.

Mr. HASTERT. Madam Speaker, I wish to thank the majority leader, the gentleman from Texas [Mr. ARMEY], the Committee on Economic and Educational Opportunity chairman, the gentleman from Pennsylvania [Mr. GOODLING], and certainly the opportunity to work with the chairman of the opportunity subcommittee in answering my request in bring legislation to authorize library services to the House floor. H.R. 1720, the Government sponsored Enterprise Privatization Act improves the provisions of the Library Services and Technology Act. This bill authorizes $150 million for library services for fiscal year 1977 and insures the authorization necessary for fiscal years 1998 through the year 2002.

Madam Speaker, the program has wide bipartisan support in both houses of congress, and it is important that we continue it. I am very pleased it will be continued. Many local libraries have used these funds to assist them with expansion projects and to purchase new equipment. This legislation will make these programs even more effective by making these programs more flexible and easier to use. At the same time it will give libraries the ability to keep up with the information age with access to new technologies and allowing them to share resources.

Communities in my district have greatly benefitted from this program. In the past year along Elgin, Aurora, and Mendota have greatly improved their community services in libraries in addition to towns like Geneva and St. Charles and Warrenville in order to better serve the needs of its residents. Because of these grants, Mendota Graves Hume Public Library is proceeding with its Multi-county Rural Cooperative Collection Management program. This program allows libraries to fill specific needs for one another; Aurora public library's implementing its changing resources and changing world, and in Elgin, the public library's district resources through shared technology.

Madam Speaker, I ask for a positive vote on this bill.

Mr. CLAY. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Madam Speaker, first of all may I congratulate both the gentlemen on the majority side and minority side for taking up in the closing moments of the 104th Congress a very important piece of legislation that will allow for the privatizing of Sallie Mae. There are members of the minority such as the gentleman from Florida [Mr. PETERSON] and the gentleman from Texas [Mr. EDWARDS] and myself who have worked diligently during this session of the Congress to promote privatization of Sallie Mae. It is an institution that has matured, and under this legislation it will meet new needs of college students and colleges and universities after the privatization of both Sallie Mae and Connie Lee. It is an effort that we can all move forward with pride.

It is, I think, a very good example of the privatization from the standpoint that I think what the American people really want us to do is to recognize when organizations become mature and can be self-sufficient and can enter into the private market to assume risks that government no longer has to underwrite. This is a perfect example of this accomplishment. It also allows for direct lending to continue, but it provides that Sallie Mae, by being able to enter into other activities, can make itself much more self-sufficient and supportive of the obligations that presently exist in the marketplace and otherwise would have to be guaranteed by the United States Government.

To my friend from Florida, I should say, "Dr. MEEK," we are remiss if we did not call to her attention that some of the programs that have been left out of this bill pending on the floor are only programs that have been unfunded and they are being now deauthorized, but this legislation will not have an adverse impact and is nothing nearly as severe as what previously came out of the committee.

What is now being offered is a very streamlined bill. It provides primarily for privatization, of Sallie Mae and

Connie Lee, and then it does reauthorize some programs and, of course, provides for the development of a program for library services.

I would urge my colleagues both on the minority side and the majority side, in the spirit of the statements of the gentleman from Wisconsin [Mr. GUNDERSON] to the full House just a few minutes ago to the effect that here is an opportunity for all of us in a very mature manner who have studied this for a long period of time to see something done right. Passage of this bill does mean reform or change, and it means privatization, but in none of those instances is it radical or extreme. It is using the marketplace and the free market system to perform what government had to perform before, and it does so in a very positive, straightforward and open method.

So I simply compliment the leadership on the majority side and the minority side for having attained this compromise, and I urge my colleagues to support the bill, in spite of the fact that there were some political problems that did arise. None of us are innocent of those kinds of problems. Sometimes our staff and some of our friends have excesses, we have to allow for that, but I think everybody on both sides of the aisle and the White House are comfortable with this bill. I urge all my colleagues to support its passage.

□ 1345

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

Mr. MCKEON. Madam Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM], a good friend who is chairman of the Subcommittee on Early Childhood, Youth, and Families, and has responsibility for the library portion of the bill.

(Mr. CUNNINGHAM asked and was given permission to add extraneous materials.)

Mr. CUNNINGHAM. Madam Speaker, I rise in support of H.R. 1720. Let me tell the Members why. I think especially there are three main parts: The creation of the Institute for Museum and Library Services; adult education and literacy programs; privatization of Sallie Mae.

We had a monumental debate here on the House floor with the issue of 85–15, which I believe will be resolved in this particular case. Rather than speak from my notes, Madam Speaker, let me tell the Members why I think it is even more important.

In education we have less than 12 percent of our schools that have even a single phone jack. If we are going to prepare our children for the 21st century, there must be the fiber optics and the modernization. Even there the schools do not have library services enough to meet those needs.

If we can link up those libraries in our colleges, our public libraries, and yes, even here in Washington, DC, think about how that will help this country. When we talk about the delta, the difference between the successful and the poor, the answer is education. We will find chronologically gifted folks at libraries; we will find the very young at libraries, as well. Whether it is through job training or whether it is through education services, this bill goes a long way to help that.

I think the telecommunications bill that we passed encourages that, and I think there are ways we can work with Members on the other side of the aisle as far as reform in our tax system, to where we can encourage those private enterprises that will invest in our children, which is a way of investing in the future. Part of that is our library services and our job training.

Perhaps we have not gone far enough in this particular Congress in job training. I will give that to my colleagues on the other side of the aisle. But I think there is an area which we can work on in the next Congress that will be beneficial as far as the libraries.

The library portion was being threatened because it was in a portion of the bill that we placed it in that may not make it through by the end of this Congress. This legislation, I think, helps remedy that. It has bipartisan support. I would like to thank the gentlemen on both sides of the aisle.

Madam Speaker, I rise in support of H.R. 1720. I would like to bring attention to four important parts of this legislation: The creation of the Institute for Museum and Library Services, the renewal of certain adult education and literacy programs, the privatization of Sallie Mae, and the resolution of the so-called 85–15 issue.

The Institute of Museum and Library Services:

With the close help of America's museum and library communities, this legislation creates an Institute of Museum and Library Services. It merges the Institute of Museum Services and our Federal Library Services and Construction Act programs into one organization. We do this for three reasons.

First, museums and libraries are first and foremost deliverers of information. Through books and exhibits, microfiche, video, and the Internet, they can and do work together for the benefit of citizens and communities.

Second, the advance of the information age is transforming how people obtain information. So we have placed a new focus on the Federal role in these programs toward electronically linking libraries and museums to one another, to other agencies and services, and to communities, schools, and citizens. We all know that the printing press revolutionized Europe in the Middle Ages by making books available to everyone. Today's Internet has that same potential: to bring people and information together from a whole world apart, with the simple point and click of a mouse.

And third, the IMLS simplifies the administration of Federal museum and library programs, while maintaining their unique and useful character. Its leadership will alternate from leaders in libraries or museums. The IMLS library division will make simplified grants to State library agencies. And the IMLS museum portion will continue awarding grants to local museum organizations.

At this point, I would like to include for the RECORD letters of support from California.

Madam Speaker, our libraries and museums are a national treasure. They are a free and open institution of learning for every American, regardless of wealth or background. They provide information, help people find jobs, offer entertainment, and unite our communities. They represent the best in America. In short, they work. And while most of their funding is from local, State, and private resources, the Federal Government has a role. By adopting this legislation, we provide the catalyst to help bring our museums and libraries into the 21st century.

Renewal of adult education and literacy programs:

H.R. 1720 also continues the authorization for our Federal adult education and literacy programs. Adult education provides individuals who lack the most basic skills—such as literacy, English proficiency, or a high school equivalency diploma—the tools they need to have a fighting chance at the American dream. An individual who cannot read or perform basic math cannot hope to find a good job, or to benefit from job training.

Simply put, our investment in effective adult education transforms those who are dependent upon society into contributors to society. Like the library and museum portion of H.R. 1720, these provisions were included in the CAREERS legislation which is stalled in the Senate. It deserves our support.

Privatizing Sallie Mae:

Sallie Mae, the Student Loan Marketing Association, is a Government-sponsored enterprise, owned by private stockholders, that provides a secondary market for student loan financing. When President Clinton advanced his direct lending initiative, it limited Sallie Mae's traditional market, and impacted Sallie Mae stockholders.

I oppose President Clinton's direct lending plan because, over 7 years, it costs taxpayers $1 billion more to provide the same number of student loans as private markets. And while the President has sought to have direct lending replace private markets, Congress has limited the growth of direct lending. Nevertheless, direct lending is a fact of life today. Its existence unfairly impacts the thousands of senior citizens, private pensions, and other Americans who own stock in Sallie Mae.

Allowing Sallie Mae stockholders the opportunity to vote to privatize is simply a matter of fairness. The legislation structures any privatization carefully, so taxpayers and citizens alike get their money's worth.

Partial resolution of 85–15:

This legislation also contains a partial resolution of the so-called 85–15 issue. The 85–15 policy enacted by Congress has been implemented retroactively on for-profit institutions of higher learning. Such schools are made responsible for their compliance with regulations before they were published on May 1, 1994. This kind of retroactive enforcement is simply un-American.

Our bill ends retroactive, preregulatory enforcement of the 85–15 rule.

Unfortunately, H.R. 1720 does not make a further necessary reform which I support. The measure does not exclude Federal training money from the 15 percent of a for-profit school's income coming from sources other than the Higher Education Act. As we all know, Federal training programs are not authorized by the Higher Education Act. They are authorized under other legislation. But the Department of Education has been enforcing 85–15 contrary to the will and intent of Congress. I am confident we will revisit this issue.

Support H.R. 1720:

I urge all of my colleagues to support H.R. 1720. It's good for libraries and museums, for our children and our seniors, for students, and for many of our excellent for-profit educational institutions.

Madam Speaker, I include for the RECORD the following letters:

CALIFORNIA STATE LIBRARY,
Sacramento, CA, September 23, 1996.

Hon. RANDY "DUKE" CUNNINGHAM,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN CUNNINGHAM: The California State Library applauds your initiatives to pass the successor to the Library Services and Construction Act (LSCA) with the forward thinking Library Services and Technology Act (LSTA), and we support the passage of H.R. 1720 to achieve this goal.

Thank you for your continued efforts on behalf of California library users.

Yours sincerely,

Dr. KEVIN STARR,
State Librarian of California.

P.S.—You have become the champion of public libraries! All of us are grateful to you for you vision and leadership!

KS.

CALIFORNIA LIBRARY OF SERVICES BOARD,
Sacramento, CA, September 23, 1996.

Hon. RANDY "DUKE" CUNNINGHAM,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN CUNNINGHAM: On behalf of the public libraries of California, I support the Library Services and Technology Act that is in H.R. 1720. This Act will provide much needed assistance to our libraries using state based priorities. Our libraries support your efforts to help our children be lifelong readers, and to incorporate the new technologies in their development as productive adults in our society.

Sincerely,

JOAN K. KALLENBERG,
President.

ESCONDIDO PUBLIC LIBRARY,
Escondido, CA, September 23, 1996.

DEAR CONGRESSMAN CUNNINGHAM: The Escondido Public Library applauds your initiatives to pass the successor to the Library Services and Construction Act (LSCA) with the forward-thinking Library Services and Technology Act (LSTA). We would appreciate a "yes" vote for the passage of H.R. 1720 to achieve this goal.

Thank you for continued efforts on behalf of California Library users.

Sincerely.

BARBARA L. LOOMIS,
Assistant City Librarian.

Mr. MCKEON. Madam Speaker, I yield 3 minutes to my friend, the gentleman from Virginia, Mr. TOM DAVIS.

Mr. DAVIS. Madam Speaker, let me first say that I think the incident the gentleman from Missouri [Mr. CLAY] has referred to was regrettable. We know it was not sanctioned from Sallie Mae. It was not requested from our office, I can tell the gentleman, in terms of a candidate package. We obviously are always happy to hear from our corporate constituents over any issue of concern, but somebody I think acted a little overzealously.

I want to thank the gentleman from Missouri for the way he has handled this and note how, on our side, when there were efforts to take away the tax exemption from the NEA, I was one of the Republicans who do not believe in getting even with your enemies, and am in support of their continued tax exemption, and the same with the PIRGS. In that spirit, we are moving ahead and staying with the issue.

Sallie Mae has permanent roots within the 11th Congressional District. When I was chairman of the county board we helped move their permanent headquarters out there, and they have been a great corporate citizen. I have seen the kind of partner they have been to our northern Virginia community, bringing hundreds of high technology jobs to our community and the promise of stable employment for years to come.

But they bring a lot with it. Already, their work in the Reston community with the Reston Interfaith Center and the Embry Rucker Shelter are legendary. I know their employees will touch many more northern Virginia charities as time goes on.

Sallie Mae is about to embark upon a great new adventure as a corporation, which will benefit northern Virginia and the American people. For northern Virginia, privatization will mean more jobs as Sallie Mae expands its business beyond student loans. It means that the state-of-the-art Reston technology center is a resource for more than just students and parents, but for more of Virginia's and America's families and businesses.

Congress should not miss this historic opportunity to recharter a Government-sponsored enterprise as a fully private company, but it must act while the company is still healthy and before it encounters further economic uncertainties. Sallie Mae is a company on the cutting edge of technology with a rare knowledge of the higher education community. I am confident that by allowing the company to build upon its student loan business, it will serve a number of public needs that could not be anticipated by this Congress or the next.

We should not pass up the chance to relieve the American taxpayer of nearly $50 billion or more in implicit liability for Sallie Mae's obligations. I therefore urge passage of this bill.

Madam Speaker, I would express my thanks to the chairman, the gentleman from California [Mr. MCKEON], the gentleman from California [Mr. CUNNINGHAM], the gentleman from Missouri [Mr. CLAY], and all those concerned.

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

Madam Speaker, I want to take this time to thank the gentleman from Missouri [Mr. CLAY], ranking Member of the full committee, for his leadership and support in helping bring this bill to the floor, even though there were problems that have been discussed. I think he is to be commended for that. I appreciate it on a personal note.

Madam Speaker, I would like to urge a strong "yes" vote for this bill.

Mr. GOODLING. Mr. Speaker, today I rise in support of H.R. 1720, the Government-sponsored Enterprise Privatization Act of 1996. This legislation will privatize two Government-sponsored enterprises, the Student Loan Marketing Association "Sallie Mae" and the College Construction Loan Insurance Association "Connie Lee". In addition, it provides for the elimination of more than 40 unfunded programs found in the Higher Education Act, consolidates and improves Federal library and museum programs, and provides extensions for the National Literacy Act, the Adult Education and Literacy Act, and the Carl D. Perkins Vocational and Applied Technology Act.

Sallie Mae and Connie Lee are both Government-sponsored enterprises chartered under the Higher Education Act. Both are for-profit, stockholder owned companies which have successfully fulfilled their intended purposes. After more than a year of discussions with the Treasury Department with respect to privatization, I am happy to support this bill that paves the way for a smooth transition to private sector status which works for Sallie Mae, Connie Lee, and the Federal Government.

The bill before us also extends the Adult Education Act for 1 year and although it does not make major improvements to the act, we have included one important change. H.R. 1720 clarifies that funds under the Adult Education Act may be used for family literacy programs.

If we are going to effectively reduce the number of adults who are illiterate, we must work with families. Children with parents who can help them with their school work have a greater likelihood of succeeding in school. Family literacy programs provide adults with the education and parenting skills necessary to help their children succeed in school. At the same time, they work with children to improve their academic skills. While some States do use their adult education funds for family literacy programs, it is important that we amend current law to clarify that this is an allowable use of funds.

Finally, this legislation extends the authorization for the National Institute for Literacy and revises current law to allow the Institute to more effectively assist with national efforts to improve the literacy level of our country's citizens.

My one regret about H.R. 1720, is that it represents only a small fraction of the reform in the area of job training and education that I have pushed for during this Congress. My

committee devoted a huge amount of time to consolidating job training programs into block grants to States and localities that would have resulted in greater flexibility in this Country's efforts to enhance our job training system. Unfortunately, the Senate has been unable to bring H.R. 1617, the full CAREERS legislation, to the Senate floor, so today we are considering a small portion of that legislation.

With that one regret, I strongly support passage of H.R. 1720.

Mr. CUNNINGHAM. Madam Speaker, I rise in support of H.R. 1720. I would like to bring attention to four important parts of this legislation: the creation of the Institute for Museum and Library Services, the renewal of certain adult education and literacy programs, the privatization of Sallie Mae, and the resolution of the so-called 85–15 issue.

THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES

With the close help of America's museum and library communities, this legislation creates an Institute of Museum and Library Services. It merges the Institute of Museum Services and our Federal Library Services and Construction Act programs into one organization. We do this for three reasons.

First, museums and libraries are first and foremost delivers of information. Through books and exhibits, microfiche, video, and the Internet, they can and do work together for the benefit of citizens and communities.

Second, the advance of the Information Age is transforming how people obtain information. So we have placed a new focus on the Federal role in these programs—toward electronically linking libraries and museums to one another, to other agencies and services, and to communities, schools, and citizens. We all know that the printing press revolutionized Europe in the Middle Ages by making books available to everyone. Today's Internet has that same potential—to bring people and information together from a whole world apart, with the simple point and click of a mouse.

And third, the IMLS simplifies the administration of Federal museum and library programs, while maintaining their unique and useful character. Its leadership will alternate from leaders in libraries or museums. The IMLS library division will make simplified grants to State library agencies. And the IMLS museums portion will continue awarding grants to local museum organizations.

I have already included for the RECORD letters of support from the California State Libraries, and others.

Mr. Speaker, our libraries and museums are a national treasure. They are a free and open institution of learning for every American, regardless of wealth or background. They provide information, help people find jobs, offer entertainment, and unite our communities. They represent the best in America. In short, they work. And while most of their funding is from local, State and private resources, the Federal Government has a role. By adopting this legislation, we provide the catalyst to help bring our museums and libraries into the 21st Century.

RENEWAL OF ADULT EDUCATION AND LITERACY PROGRAMS

H.R. 1720 also continues the authorization for our Federal adult education and literacy programs. Adult education provides individuals who lack the most basic skills—such as literacy, English proficiency, or a high school equivalency diploma—the tools they need to have a fighting chance at the American dream. An individual who cannot read or perform basic math cannot hope to find a good job, or to benefit from job training.

Simply put, our investment in effective adult eduation transforms those who are dependent upon society into contributors to society. Like the library and museum portion of H.R. 1720, these provisions were included in the CAREERS legislation which is stalled in the Senate. It deserves our support.

PRIVATIZING SALLIE MAE

Sallie Mae, the Student Loan Marketing Association, is a Government-sponsored enterprise, owned by private stockholders, that provides a secondary market for student loan financing. When President Clinton advanced his Direct Lending initiative, it limited Sallie Mae's traditional market, and impacted Sallie Mae stockholders.

I oppose President Clinton's direct lending plan because, over 7 years, it costs taxpayers $1 billion more to provide the same number of student loans as private markets. And while the President has sought to have direct lending replace private markets, Congress has limited the growth of direct lending. Nevertheless, direct lending is a fact of life today. Its existence unfairly impacts the thousands of senior citizens, private pensions, and other Americans who own stock in Sallie Mae.

Allowing Sallie Mae stockholders the opportunity to vote to privatize is simply a matter of fairness. The legislation structures any privatization carefully, so taxpayers and citizens alike get their money's worth.

PARTIAL RESOLUTION OF 85–15

This legislation also contains a partial resolution of the so-called 85–15 issue. The 85–15 policy enacted by Congress has been implemented retroactively on for-profit institutions of higher learning. Such schools are made responsible for their compliance with regulations before they were published on May 1, 1994. This kind of retroactive enforcement is simply un-American.

Our bill ends retroactive, preregulatory enforcement of the 85–15 rule.

Unfortunately, H.R. 1720 does not make a further necessary reform which I support. The measure does not exclude Federal training money from the 15 percent of a forprofit school's income coming from sources other than the Higher Education Act. As we all know, Federal training programs are not authorized by the Higher Education Act. They are authorized under other legislation. But the Department of Education has been enforcing 85–15 contrary to the will and intent of Congress. I am confident we will revisit this issue.

SUPPORT OF 1720

I urge all my colleagues to support H.R. 1720. It is good for libraries and museums, for our children and our seniors, for students, and for many of our excellent forprofit educational institutions. Thank you, and I yield back the balance of my time.

Mr. ROBERTS. Madam Speaker, I rise in support of H.R. 1720, the Government-Sponsored Enterprise Privatization Act of 1996. In particular, I am pleased that H.R. 1720 includes the privatization of the Student Loan Marketing Association, or Sallie Mae.

Sallie Mae has fulfilled the mission of its Federal charter. However, as a for-profit, stockholder owned company, Sallie Mae wishes to continue to operate without the support of U.S. taxpayers and without restrictions from the U.S. Government. Sallie Mae's interest in privatization clearly shows that it remains committed to continuing its strong record in providing student loan servicing for hundreds of thousands of Americans.

H.R. 1720 is an excellent example of how a properly managed Government program can use Federal resources to serve the American public and successfully make the transition to private business without Government assistance.

Mr. WILLIAMS. Mr. Speaker, I rise in support of H.R. 1720 to privatize the Student Loan Marketing Association—Sallie Mae—and the College Construction Loan Insurance Association—Connie Lee—and am pleased to see this bill finally coming up for floor consideration. I understand that privatization language may also be included in the CR, and I hope we can do all we can to ensure the enactment of this legislation this year.

As my colleagues know, the bill in front of us today was part of the Careers Act that passed this House more than a year ago. Unfortunately, that legislation was weighed down in conference by repeated objections from the far right, and I'm somewhat disappointed that after more than 2 years, this is all that can be salvaged.

The time to privatize Sallie Mae and Connie Lee has come. There is little doubt that both of these Government-sponsored enterprises have fulfilled their intended purpose, and no longer need Federal subsidies to support the secondary loan market. Back in 1972, when Sallie Mae was established, there was a need to generate capital in the student loan market. However, there are now more than 45 different participants in the secondary market, and it makes sense for the Government to reduce the burden on taxpayers by releasing these entities from governmental control. Both Sallie Mae and Connie Lee want to be privatized and have spent many hours negotiating with us to make this separation a reality.

I urge my colleagues to support privatization on this bill or any other legislation that may contain it.

H.R. 1720 also contains provisions establishing the Library Services and Technology Act. This authority creates a new Institute for Museum and Library Services that will integrate our Federal library and museum programs to consolidate funds and promote increased cooperation between libraries and museums across the Nation. This new partnership will focus funds on assisting libraries in acquiring new technologies and increasing access to library services for individuals with special needs, including children. This new merger was developed in cooperation with, and strongly supported by, the American Library Association, the U.S. Commission on Libraries and Information Science, and the Institute of Museum Services.

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

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from California [Mr. MCKEON], that the House suspend the rules and pass the bill, H.R. 1720, as amended.

The question was taken; and (two-thirds of those having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title was amended so as to read: "A bill to reorganize the Student Loan Marketing Association, to privatize the College Construction Loan Insurance Association, to amend the Museum Services Act to include provisions improving and consolidating Federal library service programs, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCKEON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1720.

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

There was no objection.

WATER DESALINATION ACT OF 1996

Mr. DOOLITTLE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 811) to authorize research into the desalinization and reclamation of water and authorize a program for States, cities, or qualifying agencies desiring to own and operate a water desalinization or reclamation facility to develop such facilities, and for other purposes, as amended.

The Clerk read as follows:

S. 811

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 "Water Desalination Act of 1996".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DESALINATION OR DESALTING.—The terms "desalination" or "desalting" mean the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes.

(2) SALINE WATER.—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(3) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(4) USUABLE WATER.—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. AUTHORIZATION OF RESEARCH AND STUDIES.

(a) IN GENERAL.—In order to determine the most cost-effective and technologically efficient means by which usable water can be produced from saline water or water otherwise impaired or contaminated, the Secretary is authorized to award grants and to enter into contracts, to the extent provided in advance in appropriation Acts, to conduct, encourage, and assist in the financing of research to develop processes for converting saline water into water suitable for beneficial uses. Awards of research grants and contracts under this section shall be made on the basis of a competitive, merit-reviewed process. Research and study topics authorized by this section include—

(1) investigating desalination processes;

(2) ascertaining the optimum mix of investment and operating costs;

(3) determining the best designs for different conditions of operation;

(4) investigating methods of increasing the economic efficiency of desalination processes through dual-purpose co-facilities with other processes involving the use of water;

(5) conducting or contracting for technical work, including the design, construction, and testing of pilot systems and test beds, to develop desalting processes and concepts;

(6) studying methods for the recovery of byproducts resulting from desalination to offset the costs of treatment and to reduce environmental impacts from those byproducts; and

(7) salinity modeling and toxicity analysis of brine discharges, cost reduction strategies for constructing and operating desalination facilities, and the horticultural effects of desalinated water used for irrigation.

(b) PROJECT RECOMMENDATIONS AND REPORTS TO THE CONGRESS.—As soon as practicable and within three years after the date of enactment of this Act, the Secretary shall recommend to Congress desalination demonstration projects or full-scale desalination projects to carry out the purposes of this Act and to further evaluate and implement the results of research and studies conducted under the authority of this section. Recommendations for projects shall be accompanied by reports on the engineering and economic feasibility of proposed projects and their environmental impacts.

(c) AUTHORITY TO ENGAGE OTHERS.—In carrying out research and studies authorized in this section, the Secretary may engage the necessary personnel, industrial or engineering firms, Federal laboratories, water resources research and technology institutes, other facilities, and educational institutions suitable to conduct investigations and studies authorized under this section.

(d) ALTERNATIVE TECHNOLOGIES.—In carrying out the purposes of this Act, the Secretary shall ensure that at least three separate technologies are evaluated and demonstrated for the purposes of accomplishing desalination.

SEC. 4. DESALINATION DEMONSTRATION AND DEVELOPMENT.

(a) IN GENERAL.—In order to further demonstrate the feasibility of desalination processes investigated either independently or in research conducted pursuant to section 3, the Secretary shall administer and conduct a demonstration and development program for water desalination and related activities, including the following:

(1) DESALINATION PLANTS AND MODULES.—Conduct or contract for technical work, including the design, construction, and testing of plants and modules to develop desalination processes and concepts.

(2) BYPRODUCTS.—Study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impacts of those byproducts.

(3) ECONOMIC SURVEYS.—Conduct economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalination processes compared to other methods.

(b) COOPERATIVE AGREEMENTS.—Federal participation in desalination activities may be conducted through cooperative agreements, including cost-sharing agreements, with non-Federal public utilities and State and local governmental agencies and other entities, in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.

SEC. 5. AVAILABILITY OF INFORMATION.

All information from studies sponsored or funded under authority of this Act shall be considered public information.

SEC. 6. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary may—

(1) accept technical and administrative assistance from States and public or private agencies in connection with studies, surveys, location, construction, operation, and other work relating to the desalting of water, and

(2) enter into contracts or agreements stating the purposes for which the assistance is contributed and providing for the sharing of costs between the Secretary and any such agency.

SEC. 7. COST SHARING.

The Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act shall not exceed 50 percent of the total cost of the project or research or study activity. A Federal contribution in excess of 25 percent for a project carried out under this Act may not be made unless the Secretary determines that the project is not feasible without such increased Federal contribution. The Secretary shall prescribe appropriate procedures to implement the provisions of this section. Costs of operation, maintenance, repair, and rehabilitation of facilities funded under the authority of this Act shall be non-Federal responsibilities.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTION 3.—There are authorized to be appropriated to carry out section 3 of this Act $5,000,000 per year for fiscal years 1997 through 2002. Of these amounts, up to $1,000,000 in each fiscal year may be awarded to institutions of higher education, including united States-Mexico binational research foundations and interuniversity research programs established by the two countries, for research grants without any cost-sharing requirement.

(b) SECTION 4.—There are authorized to be appropriated to carry out section 4 of this Act $25,000,000 for fiscal years 1997 through 2002.

SEC. 9. CONSULTATION.

In carrying out the provisions of this Act, the Secretary shall consult with the heads of the Federal agencies, including the Secretary of the Army, which have experience in conducting desalination research or operating desalination facilities. The authorization

provided for in this Act shall not prohibit other agencies from carrying out separately authorized programs for deslination research or operations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. DOOLITTLE] and the gentleman from California [Mr. FARR] will each control 20 minutes.

The Chair recognizes the gentleman from California [Mr. DOOLITTLE].

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

Madam Speaker, the Water Desalination Research and Development Act of 1996 passed at that point on May 3, 1996. It was referred to the Committee on Resources and, in addition, to the Committee on Science and the Committee on Transportation and Infrastructure.

The bill was reported out of the Committee on Transportation and Infrastructure, as well as the Senate Committee on Environment and Public Works, to bring the bill to the floor in its current form. We have also worked to coordinate with the minority in both Houses to ensure final passage. It is our expectation that the bill in its present form will be taken up by the Senate immediately.

The bill directs the Secretary of the Interior to consult with the heads of relevant Federal agencies, to conduct a basic research and development program for desalination, and to participate in demonstration projects.

As amended, the bill contains the following provisions: First, research on key subjects that will advance our ability to provide supplemental high-quality water in various water-short areas throughout the country;

Second, an evaluation of at least three alternative technologies to achieve desalination;

Third, an authorization for $55 million between now and the year 2002. This compares to an authorization of $75 million in the Senate-passed version.

Last, a funding formula which limits the Federal cost share to 50 percent, with a specific justification required for anything exceeding 25 percent.

I want to express my appreciation to the other committees that have worked with us to craft this legislation, and urge support for the bill.

Madam Speaker, I reserve the balance of my time.

Mr. FARR of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the distinguished chair of our Committee on Resources, the gentleman from California [Mr. DOOLITTLE], I want to also commend him on bringing this bill to the floor. The purpose of this bill, as amended, is to authorize the Federal program to finance strategies to encourage new research and development for methods and technologies for water desalinization.

The bill would authorize the Secretary of the Interior, in cooperation with other agencies, to award, as it was spelled out, contracts for studies regarding the desalinization of water and water reuse and demonstration projects, as so outlined.

I see all these students in the gallery, and I am thinking that when I was a student one of the poems we were all required to learn is the Coleridge "Ancient Mariner," where the great line is, "Water, water, everywhere, but not a drop to drink."

This bill allows us to drink that water, because what it does is it allows us to find the technology to solve the problems of water shortages and water contamination. Many people do not realize, but desalination of chemically and biologically impaired water can often be useful in solving problems of drought, of contamination, and an overappropriation of supplies.

Both the speakers are from the State of California. Our coastline is surrounded by salt water. The coastal communities of our great State do not have any benefit from the great water project that we have in California. We rely on the water that comes from the heavens.

Unfortunately, more and more people are living on the coast, and we are having a tremendous amount of water shortages. Everybody realizes it is only a matter of time before the technology of desalinization and the price for that technology will become available, so we can indeed tap into that great resource.

The United States, interestingly, was once the leader of this technology. No other country knew it better. The world beat a path to our door. But severe budget cuts since 1981 have all but eliminated the funds for desalinization research.

I want to really credit this bill to its author, to Senator PAUL SIMON, who pursued the desalination legislation with great determination for several years. Senator SIMON, as we know, is retiring, and has made a significant contribution to the field of water desalination, and his efforts will be appreciated for many years.

Therefore, the enactment of this bill will once again allow the United States to pursue water desalination as a means of reducing stress on our limited water supplies. I urge my colleagues to join me in support of this important piece of legislation.

Mr. SHUSTER. Madam Speaker, I rise to speak in support of S. 811, the Water Desalination Act of 1996 and to clarify its effect on programs and authorities of the Army Corps of Engineers.

First let me congratulate the proponents of this legislation, particularly the gentleman from Illinois, Senator PAUL SIMON. He has worked tirelessly with others to promote desalination research, technologies, and demonstrations. This legislation will help to do that, and as a result advance environmentally protective water conservation, reuse, and efficiency policies.

Second, I should clarify the role of the Transportation and Infrastructure Committee regarding S. 811 and our committee's intent regarding the Army Corps of Engineers. In order to expedite consideration of S. 811, our committee agreed to be discharged. We also agreed to the revisions made by the Resources Committee to limit the scope of the bill to the programs and authorities of the Secretary of the Interior. In no way should this be construed as a statement of congressional policy that the Department of the Interior is the only appropriate or most appropriate Federal entity to carry out desalination research, development, and demonstrations.

In fact, at the request of the leadership of the Transportation and Infrastructure Committee, the leadership of the Resources Committee included in the manager's amendment a specific requirement to consult with the Corps of Engineers on activities carried out under the act and included a statement that authorizations in this act are not intended to affect other agency programs or authorizations. I appreciate the cooperation of the Resources Committee and their acknowledgment that the Corps of Engineers has experience and expertise in desalination research, development, and demonstration.

I also congratulate the gentlelady from California, Representative ANDREA SEASTRAND, for her involvement in shaping and improving this bill. At her suggestion and based on the experience of the city of Santa Barbara, the manager's amendment includes specific references to key areas for desalination research.

Again, I thank my colleagues on the Resources Committee, as well as the Science Committee, for their efforts and cooperation and urge my colleagues to support the bill.

Mr. FARR of California. Madam Speaker, I yield back the balance of my time.

Mr. DOOLITTLE. Madam Speaker, I have no further requests for time. I urge an "aye" vote.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DOOLITTLE] that the House suspend the rules and pass the Senate bill, S. 811, as amended.

The question was taken; and (two-thirds having voted in favor therefore) the rules were suspended and the Senate bill as amended, was passed.

The title was amended so as to read: "An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOOLITTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks on the Senate bill just passed.

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

There was no objection.

DAVID H. PRYOR POST OFFICE BUILDING

Mr. MCHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3877) to designate the U.S. Post Office building in Camden, AR, as the "Honorable David H. Pryor Post Office Building," as amended.

The Clerk read as follows:

H.R. 3877

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

SECTION 1. DAVID H. PRYOR POST OFFICE BUILDING.

(a) DESIGNATION.—The United States Post Office building located at 351 West Washington Street in Camden, Arkansas, shall be known and designated as the "David H. Pryor Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the "David H. Pryor Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. MCHUGH] and the gentleman from New York [Mr. OWENS] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. MCHUGH].

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

Madam Speaker, the legislation before us, H.R. 3877 was unanimously approved as amended by the Committee on Government Reform and Oversight. H.R. 3877 designates the United States Post Office building located at 351 Washington Street in Camden, AR, as the "Honorable David H. Pryor Post Office Building". The amendment simply corrects the address and makes stylistic changes to make this bill conform with other Post Office naming bills passed by the House. H.R. 3877 as amended designates the United States Post Office building located at 351 West Washington Street in Camden, AR, as the "David H. Pryor Post Office Building" and makes necessary changes to the title of the bill.

This is purely a post office naming bill and, as the United States Postal Service is off budget, there would be no budgetary implication. The Congressional Budget Office has informed the committee that the bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. Additionally, the legislation contains no intergovernmental or private-sector mandates and would not affect the budgets of state, local, or tribal governments.

The original bill was introduced by the gentleman from Arkansas [Mr. DICKEY] and was cosponsored by the entire House Delegation from the State of Arkansas, pursuant to committee policy.

Madam Speaker, H.R. 3877 honors Senator DAVID H. PRYOR who served as former Chair of the Senate Subcommittee on Post Office and Civil Service, and currently serves as that panel's ranking minority member. His other committee assignments include: Agriculture, Finance, and Aging.

The Senator is a favorite son of the city of Camden, the county seat of Ouachita, AR—having been born and raised there. He was founder, publisher and editor of the Ouachita Citizen from 1957–61. He earned his law degree at the University of Arkansas and was a practicing attorney from 1964–66. Ouachita County elected him to the State legislature in 1960 at age 26. He was elected to the U.S. House of Representatives in 1966. In 1972 he ran for the Senate but was defeated in a runoff by John McClellan. However, he was elected Governor of Arkansas in 1974 and in 1976. DAVID PRYOR won the U.S. Senate seat in 1978 and has retained it for three terms. He has announced his retirement from elective office at the end of this term.

As a matter of record, Madam Speaker, the aldermen of the city of Camden passed a resolution "on behalf of each and every resident of the community expressing appreciation to the Honorable DAVID H. PRYOR for his devotion and dedication to the citizens of this community in the performance of this public service during the terms of his various elected capacities."

Madam Speaker, I urge our colleagues to support H.R. 3877 as amended, a bill to honor a former Member of this body, Senator DAVID H. PRYOR, who has spent the major part of this life in service to our country and to his community of Camden, AR.

□ 1400

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I would like to express my support for H.R. 3877, as amended, which designates the U.S. Post Office in Camden, Arkansas, as the David H. Pryor Post Office Building. It is cosponsored by the Arkansas delegation and is a fitting honor and duly notes the political contributions of this dedicated public servant, DAVID PRYOR.

DAVID PRYOR is considered one of the most influential advocates in Washington for older Americans. Starting in 1989, he served for 6 years as chairman of the Senate Special Committee on Aging and now serves as the top ranking Democrat on that committee. He also is a nationally recognized leader in the fight to save the Social Security system, to reform our nursing home industry, to bring down prescription drug prices and to make government institutions preserve the essential dignity of the senior citizens in this country.

Beyond Camden and the State of Arkansas, he is a hero. Certainly he is a hero to many senior citizens in New York and in my district. His name has been mentioned in numerous town meetings by senior citizens over the years because of this great fight against high prescription prices. DAVID PRYOR issued an information paper to assist indigent patients with access assistance programs sponsored by pharmaceutical companies. He issued a report card in 1992 on drug manufacturing price inflation, in 1993 a hearing on marketplace reform, in 1994 a briefing on equal access to discounts, in 1993 a briefing on cost containment in other industrialized nations with respect to prescription drugs, in 1993 a briefing on pharmaceutical pricing, also in 1993 a briefing on medication costs for older Americans.

Before that, he had a landmark hearing on drug prices in 1989. He is the author of the 1992 Veterans Health Care Act, which lowered the cost of drugs purchased by the VA, the Department of Defense, public health clinics, disproportionate share hospitals, et cetera. That was enacted, that act.

He was also the author of many other acts. I rise to salute him not only in terms of his being a favorite son of Arkansas, but throughout the Nation senior citizens are quite appreciative of the contributions of DAVID PRYOR. He is a hero for all the Nation.

Madam Speaker, I reserve the balance of my time.

Mr. MCHUGH. Madam Speaker, let me thank the gentleman from New York for his very kind comments and for his efforts, not just on behalf of this bill but all of the issues we are dealing with on the subcommittee. I appreciate that.

Madam Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. DICKEY], the prime sponsor of this legislation.

Mr. DICKEY. Madam Speaker, I thank the gentleman from New York for yielding me this time.

Madam Speaker, H.R. 3877 would designate the Post Office building in Camden, AR, as the David H. Pryor Post Office Building. The bill is intended to recognize Senator PRYOR's distinguished career in public service, as an Arkansas State representative for 6 years, Representative of the United States House of Representatives representing the Fourth District of Arkansas for 6 years, the governor of Arkansas for 4 years, and United States Senator for 18 years.

This bill is a fitting tribute to Senator PRYOR upon his retirement because he was born and raised in Camden, AR, where the post office will be,

because the city of Camden requested this honor to be granted to Senator PRYOR in recognition of his long service to the County of Ouachita, the State of Arkansas, and the United States, because he is the ranking minority member and the past chairman of the Senate Post Office and Civil Service Subcommittee is another reason; because he has worked tirelessly against overzealous IRS agents and enforcement methods and for the passage of a taxpayer Bill of Rights which he achieved in 1988; and because Senator PRYOR has honorably served his community, his State and his country as an elected public official for more than three decades. The House should pass this bill to honor Senator PRYOR and, in doing so, wish Senator PRYOR a long and happy retirement.

I might add, in addition to all those things, that he probably or arguably is one of the most popular public officials ever to serve in the State of Arkansas. People know him not as Senator PRYOR, not as DAVID PRYOR but just as DAVID, and he is beloved. He is a gentleman at all times. He is always polite. He never to my knowledge, and I have supported him when he ran for office in the U.S. House of Representatives, he has never offended anybody personally. He has made stands and he has offended people that way, but he is always careful to call.

I look back over my years knowing that when I was supporting him for this position, the position I now hold, representing the Fourth District, he asked me to come to Washington with him, and I declined. I was not ever sure if he meant just to come up here and help him unpack and go back or whether or not it would be to help him in his office. But I know this, it would have changed my career a whole lot, and I probably should have done it so some of his statesmanlike qualities would have rubbed off.

I wish you the best, DAVID, but I welcome you home to Arkansas after your retirement.

Mr. MCHUGH. Madam Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON], who also worked on and supported this legislation.

Mr. HUTCHINSON. I thank the gentleman for yielding me this time.

Madam Speaker, I rise today in strong support of H.R. 3877, which would name the post office in Camden, AR, after my friend and colleague, DAVID PRYOR.

DAVID began his career in 1960 with his election to the Arkansas general assembly. He then came to Washington in 1966 as the Representative of the Fourth District of Arkansas. After serving for 6 years he returned to Arkansas and in 1974 the people of Arkansas chose him as their Governor. Following his two terms as Governor, Arkansans again sent him to Washington—this time as their U.S. Senator.

DAVID is considered the most popular politician in Arkansas. For those of us who know him it is easy to understand why. For the last 18 years DAVID has diligently served the people of Arkansas. He is the consummate example of a statesman. He is tireless in his service to his constituents, courteous to those he disagrees with, listens to all sides of an argument, makes his decisions with thoughtful consideration, and is unyielding on matters of principle. He is an example not only to those of us in public service but to all Arkansans. He truly represents the very best of our State.

Senator PRYOR has been particularly active on issues affecting the elderly. Arkansas has one of the highest per capita populations of senior citizens in the Nation, and DAVID has been one of their primary champions. Through his service on the aging committee, including 6 years as chairman, the Senator has sought to bring attention to the problems which they face. His advocacy on their behalf, particularly in the areas of prescription drug prices and reforms to the nursing home industry, has been recognized nationwide.

DAVID PRYOR has also been a leader in efforts to protect the American taxpayer. As a member of the Senate Finance Committee, the Senator wrote the Taxpayer Bill of Rights, which was the first piece of legislation in 40 years to guarantee the basic rights of individual taxpayers when they deal with the Internal Revenue Service.

Finally, Madam Speaker, I would point out that during my tenure in the Arkansas legislature I was privileged to serve with another Pryor—Mark Pryor, DAVID's son. They say you can tell a lot about a man by the children he raises. I agree. I learned a lot about DAVID through his son. I had the opportunity to observe first hand the character traits that DAVID passed on to his child. Duty, honor, integrity, and devotion to constituents are always foremost in the Pryor family.

Madam Speaker, I consider it a high honor to be able to call two generations of Pryors, my friends, and I think it fitting that we honor the service of Senator DAVID PRYOR here today.

Mrs. LINCOLN. Madam Chairman, I rise today in strong support of renaming the U.S. Post Office in Camden, AR, the Honorable David H. Pryor Post Office Building, after the distinguished Senator and my dear friend, DAVID PRYOR. With this designation it is my hope that we can show, in some small measure, our appreciation for Senator PRYOR's lifelong commitment to public service in the State of Arkansas and at the national level. Most notably as a U.S. Senator for 18 years.

DAVID PRYOR began his political career by being elected to the Arkansas General Assembly in 1960. He was then elected in 1966 for 3 consecutive terms to the U.S. House of Representatives, serving the Fourth Congressional District of Arkansas, and in 1974 became Governor of the State of Arkansas. The two-term Governor is still remembered as a skilled and caring administrator who, through a time of recession, managed to cut spending without hurting programs. In 1978, the people of Arkansas made the decision to return DAVID PRYOR to Washington, but this time as a member of the U.S. Senate. A position which he has served with honor and dignity, becoming one of the most respected Senators of his generation.

As a member of the Agriculture Committee, DAVID PRYOR's leadership has led to the development of innovative programs and legislation to help our farmers and defend Arkansas' resources. In addition, DAVID PRYOR is considered one of the most influential advocates in Washington on behalf of older Americans. He also is a nationally recognized leader in the fight to save the Social Security system, to reform our nursing home industry, to bring down prescription drug prices, and to make government institutions preserve the essential dignity of the senior citizens in this country.

As a member of the Senate Finance Committee, DAVID PRYOR wrote the "Taxpayer Bill of Rights," which was the first piece of legislation in 40 years to guarantee the basic rights of individual taxpayer when they deal with the Internal Revenue Service.

DAVID PRYOR is held in high esteem by his colleagues in Congress, and in 1989, he became the first Arkansas Senator since Joe T. Robinson to occupy a position in the Senate leadership, which he held for 6 years until 1995. Few have created such a positive influence for Arkansas and our great Nation while remaining so dedicated to service. But most importantly, DAVID PRYOR considers it an honor to represent the people of Arkansas, and we consider it an honor to have had such a talented and compassionate individual to represent us and our State for these many years. The motto of his service, "Arkansas Comes First," is more than a slogan; it has and continues to be his way of life.

With the constant negativity and partisanship in the political climate of the 1990's, many politicians have fallen from grace in the eyes of their constituents and the Nation. However, I can honestly say that there is no one who is more respected for his leadership abilities and his kind, thoughtful nature in the State of Arkansas than Senator DAVID PRYOR. Senator PRYOR continues to transcend partisan political bickering to remain at all times a gentleman and a statesman, and one of the most admired persons to ever grace the halls of Congress. Further, I could not have asked for a more supportive, caring, and thoughtful mentor.

Again, may I add my full support for H.R. 3877, designating the David H. Pryor U.S. Post Office.

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

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

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from New York [Mr. MCHUGH] that the House suspend the rules and pass the bill, H.R. 3877, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States Post Office building located at 351 West Washington Street in Camden, Arkansas, as the 'David H. Pryor Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3877, as amended.

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

There was no objection.

PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3452) to make certain laws applicable to the Executive Office of the President, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3452

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Presidential and Executive Office Accountability Act".

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

Sec. 1. Short title and table of contents.
Sec. 2. Extension of certain rights and protections to presidential offices.
Sec. 3. Amendments to title 28, United States Code.
Sec. 4. Financial officers within the Executive Office of the President.
Sec. 5. Amendment to definition of "special government employee".
Sec. 6. Applicability of future employment laws.
Sec. 7. Repeal of section 320 of the Government Employee Rights Act of 1991.
Sec. 8. Political affiliation.
Sec. 9. Estabishment of Inspector General for Executive Office of the President.

SEC. 2. EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES.

(a) IN GENERAL.—Title 3, United States Code, is amended by adding at the end the following:

"CHAPTER 5—EXTENSION OF CERTAIN RIGHTS AND PROTECTIONS TO PRESIDENTIAL OFFICES

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"401. Definitions.
"402. Application of laws.

"SUBCHAPTER II—EXTENSION OF RIGHTS AND PROTECTIONS

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"411. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990.
"412. Rights and protections under the Family and Medical Leave Act of 1993.
"413. Rights and protections under the Fair Labor Standards Act of 1938.
"414. Rights and protections under the Employee Polygraph Protection Act of 1988.
"415. Rights and protections under the Worker Adjustment and Retraining Notification Act.
"416. Rights and protections relating to veterans' employment and reemployment.
"417. Prohibition of intimidation or reprisal.

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"420. Rights and protections under the Americans with Disabilities Act of 1990.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"425. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

"PART D—LABOR-MANAGEMENT RELATIONS

"430. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations.

"PART E—GENERAL

"435. Generally applicable remedies and limitations.

"SUBCHAPTER III—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

"451. Procedure for consideration of alleged violations.
"452. Counseling and mediation.
"453. Election of proceeding.
"454. Appropriate agencies.
"455. Effect of failure to issue regulations.
"456. Confidentiality.
"457. Definitions.

"SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

"471. Establishment of White House Compliance Board.
"472. Personnel.
"473. Facilities.

"SUBCHAPTER V—EFFECTIVE DATE

"481. Effective date.

"Subchapter I—General Provisions

"SEC. 401. DEFINITIONS.

"Except as otherwise specifically provided in this chapter, as used in this chapter:

"(1) BOARD.—The term 'Board' means the Merit Systems Protection Board under chapter 12 of title 5.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means any employee of an employing office.

"(3) EMPLOYEE.—The term 'employee' includes an applicant for employment and a former employee.

"(4) EMPLOYING OFFICE.—The term 'employing office' means—

"(A) each office, agency, or other component of the Executive Office of the President;

"(B) the Executive Residence at the White House; and

"(C) the official residence (temporary or otherwise) of the Vice President.

"SEC. 402. APPLICATION OF LAWS.

"The following laws shall apply, as prescribed by this chapter, to all employing offices (including employing offices within the meaning of section 411, to the extent prescribed therein):

"(1) The Fair Labor Standards Act of 1938.

"(2) Title VII of the Civil Rights Act of 1964.

"(3) The Americans with Disabilities Act of 1990.

"(4) The Age Discrimination in Employment Act of 1967.

"(5) The Family and Medical Leave Act of 1993.

"(6) The Occupational Safety and Health Act of 1970.

"(7) Chapter 71 (relating to Federal service labor-management relations) of title 5.

"(8) The Employee Polygraph Protection Act of 1988.

"(9) The Worker Adjustment and Retraining Notification Act.

"(10) The Rehabilitation Act of 1973.

"(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

"Subchapter II—Extension of Rights and Protections

"PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

"SEC. 411. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.

"(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

"(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964;

"(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967; or

"(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 and sections 102 through 104 of the Americans with Disabilities Act of 1990.

"(b) REMEDY.—

"(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

"(A) such damages as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964; and

"(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes, or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

"(A) such damages as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967; and

"(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act.

In addition, the waiver provisions of section 7(f) of such Act shall apply to covered employees.

"(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

"(A) such damages as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 or section 107(a) of the Americans with Disabilities Act of 1990; and

"(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes.

"(c) DEFINITIONS.—Except as otherwise specifically provided in this section, as used in this section:

"(1) COVERED EMPLOYEE.—The term 'covered employee' means any employee of a unit of the executive branch, including the Executive Office of the President, whether appointed by the President or by any other appointing authority in the executive branch, who is not otherwise entitled to bring an action under any of the statutes referred to in subsection (a), but does not include any individual—

"(A) whose appointment is made by and with the advice and consent of the Senate;

"(B) who is appointed to an advisory committee, as defined in section 3(2) of the Federal Advisory Committee Act; or

"(C) who is a member of the uniformed services.

"(2) EMPLOYING OFFICE.—The term 'employing office', with respect to a covered employee, means the office, agency, or other entity in which the covered employee is employed (or sought employment or was employed in the case of an applicant or former employee, respectively).

"(d) APPLICABILITY.—Subsections (a) through (c), and section 417 (to the extent that it relates to any matter under this section), shall apply with respect to violations occurring on or after the effective date of this chapter.

"SEC. 412. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

"(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

"(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 shall apply to covered employees.

"(2) DEFINITIONS.—For purposes of the application described in paragraph (1)—

"(A) the term 'employer' as used in the Family and Medical Leave Act of 1993 means any employing office; and

"(B) the term 'eligible employee' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993.

"SEC. 413. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

"(a) FAIR LABOR STANDARDS.—

"(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 shall apply to covered employees.

"(2) INTERNS AND VOLUNTEERS.—For the purposes of this section, the term 'covered employee' does not include an intern or a volunteer as defined in regulations under subsection (c).

"(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) IRREGULAR WORK SCHEDULES.—The President shall issue regulations for covered employees whose work schedules directly depend on the schedule of the President or the Vice President that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

"SEC. 414. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.

"(a) POLYGRAPH PRACTICES PROHIBITED.—No employing office may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988. In addition, the waiver provisions of section 6(d) of such Act shall apply to covered employees.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"SEC. 415. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

"(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no employing office shall be closed or mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

"(2) EXCEPTION.—

"(A) IN GENERAL.—In the event that a President (hereinafter in this paragraph referred to as the 'previous President') does not succeed himself in office as a result of the election of a new President—

"(i) no notice or waiting period shall be required under paragraph (1) with respect to the separation of any individual described in subparagraph (B), if such separation occurs pursuant to a closure or mass layoff ordered after the term of the new President commences; and

"(ii) if any individual is separated from service, or begins a period of leave under the Family and Medical Leave Act of 1993, before such term commences, nothing in this chapter shall require reinstatement or restoration to employment of the individual after such term commences.

"(B) DESCRIPTION OF INDIVIDUALS.—An individual described in this subparagraph is any covered employee serving pursuant to an appointment made during—

"(i) the term of office of the previous President; or

"(ii) any term, earlier than the term referred to in clause (i), during which such previous President served as President or Vice President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"SEC. 416. RIGHTS AND PROTECTIONS RELATING TO VETERANS' EMPLOYMENT AND REEMPLOYMENT.

"(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

"(1) IN GENERAL.—It shall be unlawful for an employing office to—

"(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

"(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

"(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

"(2) DEFINITION.—For purposes of this section, the term 'eligible employee' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon the occurrence of any of the events enumerated in section 4304 of such title.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such damages as would be appropriate if awarded under paragraphs (1) and (2)(A) of section 4323(c) of title 38.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"SEC. 417. PROHIBITION OF INTIMIDATION OR REPRISAL.

"(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

"(b) REMEDY.—A violation of subsection (a) may be remedied by any legal remedy available to redress the practice opposed by the covered employee or other violation of law as to which the covered employee initiated proceedings, made a charge, or engaged in other conduct protected under subsection (a).

"(c) DEFINITIONS.—For purposes of applying this section with respect to any practice or other matter to which section 411 relates, the terms 'employing office' and 'covered employee' shall each be considered to have the meaning given to it by such section.

"PART B—PUBLIC ACCESS PROVISIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

"SEC. 420. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990.

"(a) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201, 202, and 204, and sections 302, 303, and 309, of the Americans with Disabilities Act of 1990 shall apply, to the extent that public services, programs, or activities are provided, with respect to the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 203 or 308 of the Americans with Disabilities Act of 1990, as the case may be, except that, with respect to any claim of employment discrimination, the exclusive remedy shall be under section 411 of this title. A remedy under the preceding sentence shall be enforced in accordance with applicable provisions of such section 203 or 308, as the case may be.

"(c) DEFINITION.—For purposes of the application under this section of the Americans with Disabilities Act of 1990, the term 'public entity' as used in such Act, means, to the extent that public services, programs, or activities are provided, the White House and its appurtenant grounds and gardens, the Old Executive Office Building, the New Executive Office Buildings, and any other facility to the extent that offices are provided for employees of the Executive Office of the President.

"PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

"SEC. 425. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

"(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

"(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970.

"(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

"(A) the term 'employer' as used in such Act means an employing office; and

"(B) the term 'employee' as used in such Act means a covered employee.

"(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970.

"(c) PROCEDURES.—

"(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the Secretary of Labor shall have the authority to inspect and investigate places of employment under the jurisdiction of employing offices in accordance with subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970.

"(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—The Secretary of Labor shall have the authority, in accordance with sections 9 and 10 of the Occupational Safety and Health Act of 1970, to issue—

"(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

"(B) a notification to any employing office that the Secretary of Labor believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

"(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the Secretary of Labor determines that a violation has not been corrected—

"(A) the citation and notification shall be deemed a final order (within the meaning of section 10(b) of the Occupational Safety and Health Act of 1970) if the employer fails to notify the Secretary of Labor within 15 days (excluding Saturdays, Sundays, and Federal holidays) after receipt of the notice that he intends to contest the citation or notification; or

"(B) opportunity for a hearing before the Occupational Safety and Health Review Commission shall be afforded in accordance with section 10(c) of the Occupational Safety and Health Act of 1970, if the employer gives timely notice to the Secretary that he intends to contest the citation or notification.

"(4) VARIANCE PROCEDURES.—An employing office may request from the Secretary of Labor an order granting a variance from a standard made applicable by this section, in accordance with sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970.

"(5) JUDICIAL REVIEW.—Any person or employing office aggrieved by a final decision of the Occupational Safety and Health Review Commission under paragraph (3) or the Secretary of Labor under paragraph (4) may file a petition for review with the appropriate United States circuit court of appeals under section 1296 of title 28.

"(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

"(d) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The President shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the President may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

"(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

"PART D—LABOR-MANAGEMENT RELATIONS

"SEC. 430. APPLICATION OF CHAPTER 71 OF TITLE 5, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

"(a) LABOR-MANAGEMENT RIGHTS.—Subject to subsection (d), chapter 71 of title 5 shall apply to employing offices and to covered employees and representatives of those employees, except that covered employees shall not have a right to reinstatement pursuant to section 7118(a)(7)(C) or 7123 of title 5.

"(b) DEFINITION.—For purposes of the application under this section of chapter 71 of title 5, the term 'agency' as used in such chapter means an employing office.

"(c) REGULATIONS TO IMPLEMENT SECTION.—

"(1) IN GENERAL.—The Federal Labor Relations Authority shall issue regulations to implement this section.

"(2) AGENCY REGULATIONS.—Except as provided in subsection (d), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Authority to implement the statutory provisions referred to in subsection (a), except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

"(B) as the Authority deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

"(d) SPECIFIC REGULATIONS REGARDING APPLICATIONS TO CERTAIN EMPLOYING OFFICES.—

"(1) REGULATIONS REQUIRED.—The Authority shall issue regulations on the manner and the extent to which the requirements and exemptions of chapter 71 of title 5 should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5 and

of this chapter, and shall be the same as the substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

"(A) to the extent the Authority may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

"(B) that the Authority shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Authority determines that such exclusion is required because of—

"(i) a conflict of interest or appearance of a conflict of interest; or

"(ii) the President's or Vice President's constitutional responsibilities.

"(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

"(A) the White House Office;

"(B) the Executive Residence at the White House;

"(C) the Office of the Vice President;

"(D) the Office of Policy Development;

"(E) the Council of Economic Advisors;

"(F) the National Security Council;

"(G) the Office of Management and Budget;

"(H) the Office of National Drug Control Policy; and

"(I) the Office of the Inspector General of the Executive Office of the President.

"PART E—GENERAL

"SEC. 435. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 420, is a prevailing party in any proceeding under section 453(1), the administrative agency may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 453(1), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—Except as otherwise provided in this chapter, no civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

"(d) EXCLUSIVE PROCEDURE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this chapter except as provided in this chapter and in sections 1296 and 1346(g) and chapter 179 of title 28.

"(2) VETERANS.—A covered employee under section 416 may also utilize any provisions of chapter 43 of title 38 that are applicable to that employee.

"(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in section 452 may be granted a remedy under part A of this subchapter.

"(f) CONSTRUCTION.—

"(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

"(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than paragraphs (2) and (3) of section 2(a) of the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

"(g) DEFINITIONS RELATING TO SECTION 411.—For purposes of applying this section with respect to any practice or other matter to which section 411 relates, the terms 'employing office' and 'covered employee' shall each be considered to have the meaning given to it by such section.

"Subchapter III—Administrative and Judicial Dispute-Resolution Procedures

"SEC. 451. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

"The procedure for consideration of alleged violations of part A of subchapter II consists of—

"(1) counseling and mediation as provided in section 452; and

"(2) election, as provided in section 453, of either—

"(A) an administrative proceeding as provided in section 453(1) and judicial review as provided in section 1296 of title 28; or

"(B) a civil action in a district court of the United States as provided in section 1346(g) of title 28.

"SEC. 452. COUNSELING AND MEDIATION.

"(a) IN GENERAL.—The President shall by regulation establish procedures substantially similar to those under sections 402 and 403 of the Congressional Accountability Act of 1995 for the counseling and mediation of alleged violations of a law made applicable under part A of subchapter II.

"(b) EXHAUSTION REQUIREMENT.—A covered employee who has not exhausted counseling and mediation under subsection (a) shall be ineligible to make any election under section 453 or otherwise pursue any further form of relief under this subchapter.

"SEC. 453. ELECTION OF PROCEEDING.

"Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

"(1) file a complaint with the appropriate administrative agency, as determined under section 454; or

"(2) file a civil action under section 1346(g) of title 28.".

"SEC. 454. APPROPRIATE AGENCIES.

"(a) IN GENERAL.—Except as provided in subsection (b), the appropriate agency under this section with respect to an alleged violation of part A of subchapter II shall be the Board.

"(b) EXCEPTIONS.—

"(1) DISCRIMINATION.—For purposes of any action arising under section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the appropriate agency shall be the Equal Employment Opportunity Commission, and the complaint in any such action shall be processed under the same administrative procedures as any such complaint filed by any other Federal employee.

"(2) MIXED CASES.—However, in the case of any covered employee (within the meaning of section 411(c)(1)) who has been affected by an action which an employee of an executive agency may appeal to the Board and who alleges that a basis for the action was discrimination prohibited by section 411 (or any action alleging intimidation, reprisal, or discrimination under section 417 relating to any practice made unlawful under section 411), the initial appropriate agency shall be the Board, and such matter shall thereafter be processed in accordance with section 7702 (a)–(d) (disregarding paragraph (2) of such subsection (a)) and (f) of title 5.

"(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law (including any provision of law referenced in paragraph (1) or (2)), judicial review of any administrative decision under this subsection shall be by appeal to the appropriate circuit court of appeals under section 1296 of title 28.

"SEC. 455. EFFECT OF FAILURE TO ISSUE REGULATIONS.

"In any proceeding under section 453(1), if the President has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the administrative agency shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

"SEC. 456. CONFIDENTIALITY.

"(a) COUNSELING.—All counseling under section 452 shall be strictly confidential, except that, with the consent of the covered employee, the employing office may be notified.

"(b) MEDIATION.—All mediation under section 452 shall be strictly confidential.

"SEC. 457. DEFINITIONS.

"For purposes of applying this subchapter, the terms 'employing office' and 'covered employee' shall each, to the extent that section 411 is involved, be considered to have the meaning given to it by such section.

"SUBCHAPTER IV—WHITE HOUSE COMPLIANCE BOARD

"§ 471. Establishment of White House Compliance Board

"(a) ESTABLISHMENT.—There is established, as an independent establishment within the executive branch of the Federal Government, the White House Compliance Board.

"(b) APPOINTMENT.—The Board shall consist of 5 individuals appointed by the President. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the effective date of this section.

"(c) BOARD QUALIFICATIONS.—

"(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Board. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under 1 or more of the laws made applicable under this chapter.

"(2) DISQUALIFICATION FOR APPOINTMENTS.—No member of the Board appointed under subsection (b) may hold or may have held a position in the executive branch of the Federal Government within 4 years of the date of appointment.

"(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

"(d) TERM OF OFFICE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

"(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board—

"(A) 1 shall have a term of office of 3 years;

"(B) 2 shall have a term of office of 4 years; and

"(C) 2 shall have a term of office of 5 years; as designated at the time of appointment by the President.

"(e) REMOVAL.—

"(1) AUTHORITY.—Any member of the Board may be removed from office by the President, but only for—

"(A) disability that substantially prevents the member from carrying out the duties of the member;

"(B) incompetence;

"(C) neglect of duty;

"(D) malfeasance, including a felony or conduct involving moral turpitude; or

"(E) holding an office or employment that disqualifies the individual from service as a member of the Board under subsection (c)(2).

"(2) STATEMENT OF REASONS FOR REMOVAL.—In removing a member of the Board, the President shall state in writing to the member of the Board being removed the specific reasons for the removal.

"(f) COMPENSATION.—

"(1) PER DIEM.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

"(2) TRAVEL EXPENSES.—Each member of the Board shall receive 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 for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) FINANCIAL DISCLOSURE REPORTS.—Members of the Board shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978.

"§ 472. Personnel

"(a) EXECUTIVE DIRECTOR.—

"(1) APPOINTMENT AND REMOVAL.—

"(A) IN GENERAL.—There shall be an Executive Director of the Board.

"(B) APPOINTMENT.—The initial Executive Director shall be appointed by the President, and shall serve for a 6-month term. After the end of the term of the initial Executive Director, the Board shall appoint and may remove the Executive Director.

"(C) QUALIFICATIONS.—The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 402. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Executive Director.

"(D) DISQUALIFICATION.—The disqualification specified in section 471(c)(2) shall apply to the appointment of the Executive Director.

"(2) COMPENSATION.—The Board (or the President in the case of the initial Executive Director) may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

"(3) DUTIES.—The Executive Director shall serve as the chief operating officer of the Board.

"(b) OTHER STAFF.—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, as may be essential to enable the Board to perform its duties.

"(c) DETAILED PERSONNEL.—Upon request of the Executive Director, the head of any Federal agency shall detail any of the personnel of that agency, including members or personnel of the General Accounting Office Personnel Appeals Board, to the Board to assist the Board in carrying out its duties. Such detail may be on a reimbursable or nonreimbursable basis. Such detail shall be without interruption or loss of civil service status or privilege.

"(d) CONSULTANTS.—In carrying out the functions of the Board, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

"§ 473. Facilities

"The Equal Employment Opportunity Commission shall supply such office facilities, office supplies, support services, and related expenses as may be necessary to enable the Board to carry out the functions of the Board.

"Subchapter V—Effective Date

"SEC. 481. EFFECTIVE DATE.

"This chapter shall take effect 1 year after the date of the enactment of the Presidential and Executive Office Accountability Act.".

(b) REGULATIONS.—Appropriate measures shall be taken to ensure that any regulations needed to implement chapter 5 of title 3, United States Code, as amended by this section, shall be in effect by the effective date of such chapter.

(c) TECHNICAL AMENDMENT.—The table of chapters for title 3, United States Code, is amended by adding at the end the following:

"5. Extension of Certain Rights and Protections to Presidential Offices ..... 401".

SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIRCUIT COURT JURISDICTION.—(1) Chapter 83 of title 28, United States Code, is amended by adding at the end the following:

"§ 1296. Review of certain agency actions

"(a) JURISDICTION.—Subject to the provisions of chapter 179, the courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction over a petition for review of a final decision under chapter 5 of title 3 of—

"(1) an appropriate agency (as determined under section 454 of title 3);

"(2) the Federal Labor Relations Authority under chapter 71 of title 5, notwithstanding section 7123 of such title; or

"(3) the Secretary of Labor or the Occupational Safety and Health Review Commission, made under part C of subchapter II of chapter 5 of title 3.

"(b) FILING OF PETITION.—Any petition for review under this section must be filed within 30 days after the date the petitioner receives notice of the final decision.

"(c) VENUE.—The venue of a proceeding under thi section is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.".

(2) The table of sections for chapter 158 of title 28, United States Code, is amended by adding at the end the following:

"1296. Review of certain agency actions.".

(b) DISTRICT COURT ACTIONS.—

(1) JURISDICTION.—Section 1346 of title 28, United States Code, is amended by adding at the end the following:

"(g) Subject to the provisions of chapter 179, the district courts of the United States shall have exclusive jurisdiction over any civil action commenced under section 453(2) of title 3, by a covered employee under chapter 5 of such title.".

(2) VENUE.—(A) Chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"§ 1413. Venue of cases under chapter 5 of title 3

"Notwithstanding the preceding provisions of this chapter, a civil action under section 1346(g) may be brought in the United States district court for the district in which the employee is employed or in the United States district court for the District of Columbia.".

(B) The table of sections for chapter 37 of title 28, United States Code, relating to venue, is amended by adding at the end the following:

"1413. Venue of cases under chapter 5 of title 3.".

(3) JURY TRIALS.—(A) Section 2402 of title 28, United States Code, (relating to jury trials) is amended by striking Any action" and inserting "Subject to chapter 179 of this title, any action".

(c) PROCEDURE.—

(1) IN GENERAL.—Part VI of title 28, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 179—JUDICIAL REVIEW OF CERTAIN ACTIONS BY PRESIDENTIAL OFFICES

"Sec.

"3901. Civil actions.

"3902. Judicial review of regulations.

"3904. Effect of failure to issue regulations.

"3905. Expedited review of certain appeals.

"3905. Attorney's fees and interest.

"3906. Payments.

"3907. Other judicial review prohibited.

"3908. Definitions.

"§ 3901. Civil actions

(a) PARTIES.—In an action under section 1346(g) of this title, the defendant shall be the employing office alleged to have committed the violation involved.

"(b) JURY TRIAL.—In an action described in subsection (a), any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by chapter 5 of title 3. In any case in which a violation of section 411 of title 3 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 411(b)(1) or 411(b)(3) of title 3.

"§ 3902. Judicial review of regulations

"In any proceeding under section 1296 or 1346(g) of this title in which the application of a regulation issued under chapter 5 of title 3 is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review.

"§ 3903. Effect of failure to issue regulations

"In any proceeding under section 1296 or 1346(g) of this title, if the President has not issued a regulation on a matter for wnich chapter 5 of title 3 requires a regulation to

be issued, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

"§ 3904. Expedited review of certain appeals

"(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of chapter 5 of title 3.

"(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

"§ 3905. Attorney's fees and interest

"(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under chapter 5 of title 3, or a qualified person with a disability, with respect to any claim under section 420 of title 3, is a prevailing party in any proceeding under section 1296 or section 1346(g), the court may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964.

"(b) INTEREST.—In any proceeding under section 1296 or section 1346(g), the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964.

"§ 3906. Payments

"A judgment, award, or compromise settlement against the United States under this chapter (including any interest and costs) shall be paid—

"(1) under section 1304 of title 31, if it arises out of an action commenced in a district court of the United States (or any appeal therefrom); or

"(2) out of amounts otherwise appropriated or available to such office, if it arises out of an appeal from an administrative proceeding under chapter 5 of title 3.

"§ 3907. Other judicial review prohibited

"Except as expressly authorized by this chapter and chapter 5 of title 3, the compliance or noncompliance with the provisions of chapter 5 of title 3, and any action taken pursuant to chapter 5 of title 3, shall not be subject to judicial review.

"§ 3908. Definitions.

"For purposes of applying this chapter, the terms 'employing office' and 'covered employee' have the meanings given those terms in section 401 of title 3, except that the terms 'employing office' and 'covered employee' shall each, to the extent that section 411 of title 3 is involved, be considered to have the meaning given to it by such section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of the Presidential and Executive Office Accountability Act.

(e) CONFORMING AMENDMENTS.—(1) The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

"179. Judicial Review of Certain Actions by Presidential Offices ..... 3901".

SEC. 4. FINANCIAL OFFICERS WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT.

(a) CHIEF FINANCIAL OFFICER.—Section 901 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) There shall be within the Executive Office of the President a Chief Financial Officer, who shall be appointed by the President from among individuals meeting the standards described in subsection (a)(3).

"(2) The Chief Financial Officer under this subsection shall have the same authority and shall perform the same functions as apply in the case of a Chief Financial Officer under section 902.

"(3) The Director of the Office of Management and Budget shall prescribe any regulations which may be necessary to ensure that, for purposes of implementing paragraph (2), the Executive Office of the President shall, to the extent practicable and appropriate, be treated (including for purposes of financial statements under section 3515) in the same way as an agency described in subsection (b).".

(b) DEPUTY CHIEF FINANCIAL OFFICER.—Section 903 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) There shall be within the Executive Office of the President a Deputy Chief Financial Officer, who, notwithstanding any provision of subsection (b), shall be appointed by the President from among individuals meeting the standards described in section 901(a)(3).

"(2) The Deputy Chief Financial Officer under this subsection shall have the same authority and shall perform the same functions as apply in the case of the Deputy Chief Financial Officer of an agency described in subsection (b).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 31, UNITED STATES CODE.—Section 503(a) of title 31, United States Code, is amended—

(A) in paragraph (7) by striking "respectively." and inserting "respectively (excluding any officer appointed under section 901(c) or 903(c)).''; and

(B) in paragraph (8) by striking "Officers." and inserting "Officers (excluding any officer appointed under section 901(c) or 903(c)).".

(2) DESIGNATION OF AGENCY HEAD.—The President shall designate an employee of the Executive Office of the President (other than the Chief Financial Officer or Deputy Chief Financial Officer appointed under the amendments made by subsections (a) and (b), respectively), who shall be deemed "the head of the agency" for purposes of carrying out section 902 of title 31, United States Code, with respect to the Executive Office of the President.

SEC. 5. AMENDMENT TO DEFINITION OF "SPECIAL GOVERNMENT EMPLOYEE".

(a) AMENDMENT TO SECTION 202(a).—Subsection (a) of section 202 of title 18, United States Code, is amended to read as follows:

"(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term 'special Government employee' shall mean—

"(1) an officer or employee as defined in subsection (c) who is retained, designated, appointed, or employed in the legislative or executive branch of the United States Government, in any independent agency of the United States, or in the government of the District of Columbia, and who, at the time of retention, designation, appointment or employment, is expected to perform temporary duties on a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty five consecutive days;

"(2) a part-time United States commissioner;

"(3) a part-time United States magistrate;

"(4) an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28;

"(5) a person serving as a part-time local representative of a Member of Congress in the Member's home district or State; and

"(6) a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, who is not otherwise an officer or employee as defined in subsection (c) who is—

"(A) on active duty solely for training (notwithstanding section 2105(d) of title 5);

"(B) serving voluntarily for not to exceed one hundred and thirty days during any period of three hundred and sixty five consecutive days; or

"(C) serving involuntarily.".

(b) AMENDMENT TO SECTION 202(c).—Subsection (c) of 202 of title 18, United States Code, is amended to read as follows:

"(c) The terms 'officer' and 'employee' in sections 203, 205, 207 through 209, and 218 of this title shall include—

"(1) an individual who is retained, designated, appointed or employed in the United States Government or in the government of the District of Columbia, to perform, with or without compensation and subject to the supervision of the President, the Vice President, a Member of Congress, a Federal judge or an officer or employee of the United States or of the government of the District of Columbia, a Federal or District of Columbia function under authority of law or an Executive act. As used in this section, a Federal or District of Columbia function shall include, but not be limited to—

"(A) supervising, managing, directing or overseeing a Federal or District of Columbia officer or employee in the performance of such officer's or employee's official duties;

"(B) providing regular advice, counsel, or recommendations to the President, the Vice President, a Member of Congress, or any Federal or District of Columbia officer or employee, or conducting meetings involving any of those individuals, as part of the Federal or District of Columbia government's internal deliberative process; or

"(C) obligating funds of the United States or the District of Columbia;

"(2) a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving voluntarily in excess of one hundred and thirty days during any period of three hundred and sixty-five consecutive days; and

"(3) the President, the Vice President, a Member of Congress or a Federal judge only if specified in the section.".

(c) NEW SECTION 202(f).—Section 202 of title 18, United States Code, is amended by adding at the end the following:

"(f) The terms 'officer or employee' and 'special Government employee' as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces, nor shall they include an individual who is retained, designated or appointed without compensation specifically to act as a representative of a non-Federal (or non-District of Columbia) interest on an advisory committee established pursuant to the Federal Advisory Committee Act or any similarly established committee whose meetings are generally open to the public. The non-Federal interest to be represented must be specifically set forth in the statute, charter, or Executive act establishing the committee.".

SEC. 6. APPLICABILITY OF FUTURE EMPLOYMENT LAWS.

Each Federal law governing employment in the private sector, enacted later than 12 months after the date of the enactment of this Act, shall be deemed to apply with respect to "employing offices" and "covered

employees" (within the meaning of section 401 of title 3, United States Code, as amended by this Act), unless such law specifically provides otherwise and expressly cites this section.

SEC. 7. REPEAL OF SECTION 320 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

(a) IN GENERAL.—Section 320 of the Government Employee Rights Act of 1991 is repealed.

(b) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

(c) SAVINGS PROVISION.—The repeal under this section shall not affect proceedings in which the complaint was filed before the effective date of this section, and orders shall be issued in such proceedings and appeals shall be taken therefrom as if this section had not been enacted.

SEC. 8. POLITICAL AFFILIATION.

It shall not be a violation of any provision of section 411 of title 3, United States Code, as amended by this Act, to consider the party affiliation, or political compatibility with the employing office, of an employee who is a "covered employee" for purposes of such section 411 with respect to employment decisions.

SEC. 9. ESTABLISHMENT OF INSPECTOR GENERAL FOR EXECUTIVE OFFICE OF THE PRESIDENT.

(a) ESTABLISHMENT OF OFFICE.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by inserting "the President (with respect only to the Executive Office of the President)," after "means"; and

(2) in paragraph (2) by inserting "the Executive Office of the President," after "means".

(b) APPOINTMENT OF INSPECTOR GENERAL.—Not later than 120 days after the effective date of this section, the President shall nominate an individual as the Inspector General of the Executive Office of the President pursuant to the amendments made by subsection (a).

(c) SPECIAL PROVISIONS CONCERNING INSPECTOR GENERAL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating the second section 8G (regarding a rule of construction) as section 8I; and

(2) by inserting after the first section 8G (regarding requirements for Federal entities and designated Federal entities) the following:

"SEC. 8H. SPECIAL PROVISIONS CONCERNING INSPECTOR GENERAL OF THE EXECUTIVE OFFICE OF THE PRESIDENT.

"(a) AUTHORITY, DIRECTION, AND CONTROL OF PRESIDENT.—Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the Executive Office of the President shall be under the authority, direction, and control of the President with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

"(1) ongoing criminal investigations or proceedings;

"(2) undercover operations;

"(3) the identity of confidential sources, including protected witnesses;

"(4) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions;

"(5) intelligence or counterintelligence matters; or

"(6) other matters the disclosure of which would constitute a serious threat to the national security, or would cause significant impairment to the national interests (including interests in foreign trade negotiations), of the United States.

"(b) PROHIBITING ACTIVITIES OF INSPECTOR GENERAL.—With respect to information described in subsection (a), the President may prohibit the Inspector General of the Executive Office of the President from carrying out or completing any audit or investigation, or issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the President determines that—

"(1) the disclosure of that information would interfere with the core functions of the constitutional responsibilities of the President; and

"(2) the prohibition is necessary to prevent the disclosure of that information.

"(c) NOTICE.—

"(1) NOTICE TO INSPECTOR GENERAL.—If the President makes a determination referred to in subsection (b)(1) or (2), the President shall within 30 days notify the Inspector General in writing stating the reasons for that determination.

"(2) NOTICE TO CONGRESS.—Within 30 days after receiving a notice under paragraph (1), the Inspector General shall transmit a copy of the notice to each of the Chairman and the ranking minority party member of the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and other appropriate committees or subcommittees of the Congress.

"(d) SEMIANNUAL REPORTS.—

"(1) INFORMATION TO BE INCLUDED.—The Inspector General of the Executive Office of the President shall include in each semiannual report to the President under section 5, at a minimum—

"(A) a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period;

"(B) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(C) a certification that the Inspector General has had full and direct access to all information relevant to the performance of functions of the Inspector General;

"(D) a description of all cases occurring during the reporting period in which the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to a determination of the President under subsection (b); and

"(E) such recommendations as the Inspector General considers appropriate concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Executive Office of the President, and to detect and eliminate fraud, waste, and abuse in such programs and operations.

"(2) TRANSMISSION TO CONGRESS.—Within 30 days after receiving a semiannual report under section 5 from the Inspector General of the Executive Office of the President, the President shall transmit the report to each of the Chairman and the ranking minority party member of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate with any comments the President considers appropriate.".

(d) EFFECTIVE DATE.—This section shall take effect on January 21, 1997.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

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

In the Federalist Papers, No. 57, James Madison wrote that an effective control against oppressive measures from the Federal Government on the people is the Government leaders, "Can make no law which will not have its full operation on themselves and their friends, as well as the great mass of the society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together." So said Madison.

H.R. 3452 embodies this thinking of James Madison. The civil rights, labor and employment laws that H.R. 3452 will apply to the Executive Office of the President are the same laws that the 104th Congress applied to itself during its very first day in session in January 1995. That legislation was the Congressional Accountability Act. These are the same laws that Congress and the President have in the past applied to the American people.

H.R. 3452 improves accountability. It includes provisions to ensure that the White House is financially and otherwise accountable to the American people by establishing an inspector general and a chief financial officer for the Executive Office of the President. The bill also amends the definition of a, "special Government employee."

□ 1415

This is a good-government measure which ensures that unofficial advisers are accountable to the American people and that the Government decision-making is free from the taint of conflicts of interest.

The focus of the definition of a special Government employee in the bill is on regular, unpaid, informal advisors to the President. However, the definition would also cover close regular advisors who were performing functions similar to those of a special Government employee. Senator COATS of Indiana has introduced a similar bill in the other body, S. 2000, the White House Accountability Act, which I understand the Senate is to consider this week.

It is the hallmark of good government that those who govern should be subject to the same laws they impose on those who are governed. Otherwise, those who govern may be tempted to impose onerous measures on the population. The executive branch of the Federal Government should not be exempt from the laws it administers any

more than Congress should be exempt from the laws it passes. That gap is what we remedied almost 2 years ago.

Again, the first piece of legislation we passed in the 104th Congress was the Congressional Accountability Act, through which Congress subjected itself to the same laws which apply to the American people. The bill before the House completes the process of holding the executive and legislative branches of the Federal Government to the same standards that they combined impose on others.

Madam Speaker, I yield 7 minutes to the distinguished gentleman from Florida [Mr. MICA]. As the principal author, he has provided active leadership in ensuring that the Federal Government lives by the same laws it applies to the private sector.

Mr. MICA. Madam Speaker, I thank the gentleman from California for yielding me time. I want to also recognize the gentleman's outstanding leadership and hard work on this piece of legislation. He, as chairman of the House Subcommittee on Government Management, Information, and Technology, and his able staff have worked diligently to craft, working with the minority, a bill which I think the House can be very proud of.

I would also like to take this opportunity to thank the gentleman from Pennsylvania, Chairman CLINGER, of the Committee on Government Reform and Oversight, the gentleman from Pennsylvania, Chairman GOODLING, of the Committee on Economic and Educational Opportunities, the gentleman from Illinois, Chairman HYDE, of the Committee on Judiciary, and the distinguished gentleman from Connecticut, Mr. SHAYS, and the gentleman from New Hampshire, Mr. BASS, for their leadership on this measure. Each of them has in fact made invaluable contributions to this legislation.

I also want to take just a moment and pay particular thanks and commendation to the gentlewoman from New York [Mrs. MALONEY] for her hard work and her leadership as the ranking member. I know the gentlewoman has a few problems with the bill, but I think they can be worked out. Without her leadership, the bill would not be on the floor today.

Mr. Speaker, I introduced this bill because, like many Americans, I have really become concerned about the White House, which in fact even the casual observer today would find the White House lacks accountability and operates without responsibilities to laws that apply to the rest of us.

One of the things we did and I did as a member of the new majority was to make this Congress live under the same laws as everyone else. This legislation in fact extends that same requirement to our highest office in the land, and should do so.

This bill addresses three major areas of concern. The first concern is that the Executive Office of the President is not subject to the same employment laws that cover business, private business and the Congress.

Second, it would create a chief financial officer and also an inspector general to improve financial management and responsibility at the White House.

Third, it would clarify the definition, as you have heard from the gentleman from California, of special government employees with respect to presidential advisors.

This Congress again took historic steps in its first 100 days when it made itself live under the same laws that have been imposed under the private sector. Now it is time to really just close that loop and put the White House under these same laws. It is time to end what I have called "the last plantation," where wages and working conditions of many of the employees remain unaffected by Federal employment laws.

When this is done, I think the political components of Government and the White House will be required to wrestle with the same knotty problems that private citizens and private business face every day. The President and the White House will face compliance with the same laws and edicts imposed on all Americans.

Let me turn now, Mr. Speaker, to the second objective of this bill, the improvement of the management of the financial operations at the White House. Through the hearing process during the past year we have observed that the White House financial operations in fact lack both accountability and structure. The Travelgate hearings highlighted some of the shortcomings in White House financial responsibility.

Mr. Speaker, had there been a chief financial officer at the White House back then, he or she who was in charge would have reviewed the White House travel financial management practices and said "Wow." They would have said, "Wait, let's look at this." The chief financial officer would have in fact detected any discrepancies and could have helped the Travel Office managers correct them.

The Congress failed the American people by not having adequate financial structures or safeguards in place. In fact, we must take part of that responsibility as overseers. White House employees were used, unfortunately, as scapegoats, because we failed to have reliable management or financial accountability in our Chief Executive Office of the land.

Likewise, Madam Speaker, hearings conducted by our Subcommittee on National Security, International Affairs, and Criminal Justice also reveal very serious deficiencies in oversight and accountability at the White House Communications Agency. I sit on that subcommittee. I was stunned when we heard the egregious examples of waste and abuse, all a result of almost a total lack of controls in this agency, which is under the operational control, in fact, of the Executive Office of the President.

The accounting controls were so poor that the agency recently had $14.5 million in unobligated obligations. It has been paying for equipment and services.

Madam Speaker, now, let me restate this. The accounting controls were so poor that the agency recently had $14.5 million in unvalidated obligations. It has been paying for equipment and services that are, in fact, no longer necessary. It has been paying for items that were never delivered to the agency, and it has occasionally paid for the same items twice.

An audit by the Department of Defense's IG also found that the agency paid only 17 percent of its bills on time, causing the taxpayers to pay for interest and penalties on the remaining 83 percent.

We are fortunate, in fact, Madam Speaker, that the White House does not have a mortgage, because of the way it operates. It would have, in fact, been repossessed by now.

Again, Madam Speaker, these are problems that we believe a chief financial officer would have identified and corrected.

The addition of an inspector general at the White House will also help eliminate waste, fraud, and abuse in the Executive Office of the President. I think, in fact, we can all agree that strong financial management at the White House is imperative. This bill will achieve that goal.

The third and final objective is to require more public accountability in so-called volunteers who advise the President in the Executive Office of the President. Once again, Madam Speaker, the Travelgate hearings have revealed why Congress must take these actions.

The activities only, if we use Harry Thompson as exhibit A, will reveal that this Clinton operative, an unpaid volunteer, had office accommodations, roamed the halls of the White House, participated in meetings with employees of the Executive Office and, in fact, with the President, and, in fact, attempted to influence policy in some places with a potential personal conflict of interest. In short, he acted as if he was a White House employee. Under this bill, he would have been subject to conflict-of-interest laws.

Madam Speaker, the Presidential and Executive Office Accountability Act is a good bill. It will bring the Executive Office of the President under the same employment laws and civil rights laws that Congress and the private sector must live under.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the basic principle behind the Presidential and Executive

Office Accountability Act is that the Federal Government should be subject to the same laws and regulations as the private sector.

Congress has already passed the Congressional Accountability Act. There is no reason why the executive branch should be exempt from laws which already apply to Congress and which were applied to the private sector long ago. It brings more accountability in two major areas, employment laws and financial management, to the White House.

H.R. 3452 would apply to the Executive Office of the President 11 civil rights, labor, and workplace laws which already apply to Congress and the private sector. OSHA, the Americans with Disabilities Act, the Family and Medical Leave Act, the Civil Rights Act of 1964, these are only some of the landmark laws that would be covered under this bill.

This bill would also establish remedies and procedures similar to those in the private sector for aggrieved employees. While the bill is far from perfect, the majority has worked with us to improve it, incorporating a number of amendments from the minority.

This bill also requires the appointment of a chief financial officer for the Executive Office of the President and makes certain changes to the definition of a "Special Government Employee."

At our subcommittee markup of this legislation, the minority proposed a number of amendments to this bill which were adopted, and I thank the gentleman from California [Mr. HORN] and the majority for accepting them. These amendments protect the White House volunteer program, allow the President to consider political compatibility when hiring, and change the definition of "Special Government Employee" to include a functional test.

To meet that definition, one must work less than 130 days and be retained, designated, appointed, or employed in the Federal Government to perform a Federal function. This definition is supported by ethics experts from both sides of the aisle.

I hope that my serious concerns, which, incidentally, are shared by the Office of Legal Counsel of the Justice Department, about the amendment which mandates creating an inspector general for the White House, will be addressed in the other body.

This amendment would grant an inspector general within the White House broad and unprecedented powers to audit and review any function, with limited oversight by the President and with regular reporting to the Congress.

It is hard to avoid the conclusion that this is a partisan effort to politicize a bill that has otherwise won large support from Democrats and Republicans as well as the administration.

This amendment may be unconstitutional. The Office of Legal Counsel at the Justice Department has concluded that it violates the separation of powers doctrine. For the first time in American history, it would establish an office within the White House that is statutorily required to report to Congress on a regular basis.

Madam Speaker, I will include for the RECORD a copy of the Office of Legal Counsel's letter.

Admittedly, the Congressional Research Service has concluded that the IG proposed by the amendment is constitutional, but, where there is a fundamental difference of views on such critical point, we should debate these views before we pass something in haste.

Second, an inspector general in the White House is unnecessary. For 220 years Congress has exercised its oversight over the President through hearings, investigations, and, more recently, the General Accounting Office's audits.

Furthermore, this bill already creates a chief financial officer for the Executive Office of the President that provides additional accountability.

Third, this provision violates the guiding principle that the President should be subject to the same laws as the Congress. We do not set up Government oversight outposts inside of corporations, and the idea behind this law is to impose these same labor laws as exist in the private sector and in Congress, not stronger and more intrusive ones.

The Senate has no inspector general at all. The House has one, but it is limited to financial audits of nonlegislative offices and reports only to the leadership.

□ 1430

Fourth, the new majority has been very vocal in this session on the need to streamline Government. There have been proposals to eliminate the Commerce, Education, and Energy Departments, but here the new majority wants to create a new level of bureaucracy in the Executive Office of the President, which has traditionally been a relatively small and flexible organization.

Finally, there has not been 1 day of hearings on this issue in the 104th Congress. Putting an IG in the White House would produce a fundamental shift in relations between two separate branches of Government. Such a historic change certainly merits the scrutiny of hearings. Instead, it was offered on the last day of committee consideration of this bill.

Finally, Madam Speaker, the manager's amendment to this bill contains a provision adding a compliance board for the White House. This provision was not considered by our committee, and I have reservations concerning the additional bureaucracy that it might create.

Despite my reservations on these particular issues, I am convinced that this bill on the whole is a good one. Labor laws and civil rights laws have been devised in the White House. They should also be observed in the White House.

Madam Speaker, I urge my colleagues to support this bill, and I include for the RECORD the letter I referred to earlier.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 24, 1996.

Hon. WILLIAM F. CLINGER, *Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express further views on H.R. 3452, the "Presidential and Executive Office Accountability Act." Previously we expressed our support for the Subcommittee's changes in the bill, which would limit the remedies to damages only.

We understand that an amendment, embodying the White House Inspector General Act of 1996, may be offered as an amendment to H.R. 3452 during the Government Reform Committee's markup of this legislation tomorrow. This amendment would interfere significantly with the discharge of the President's constitutional authority. Accordingly, the Department of Justice believes that the amendment would raise serious constitutional concerns and we strongly oppose the amendment on separation of powers grounds.

The Executive Office of the President is the designation of the President's closest advisors and aides. The amendment would add the Executive Office of the President to the list of Executive establishments subject to the Inspector General Act. An Inspector General is appointed for each covered establishment. Inspectors General, along with their staffs, are to be "independent and objective units" within their respective establishments and are "to conduct and supervise audits and investigations relating to the programs and operations of the establishment," "to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations," and "to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action." 5 U.S.C. app. 3, section 2.

This general charter is supplemented with a variety of specific duties. Inspectors General are to "provide policy direction for and * * * conduct, supervise, and coordinate audits and investigations;" review legislative proposals and make recommendations for legislation relating to their respective establishments; recommend policies for and actually conduct and supervise activities to promote "economy and efficiency" in the establishment's administration; detect and prevent "fraud and abuse;" supervise and coordinate relationships between the establishment and other Federal agencies, State and local governmental agencies and non-government entities to promote efficiency and prevent fraud and abuse; and keep the heads of their respective establishments and the Congress fully and currently informed about battery within their jurisdiction and recommend corrective action. *Id.* at section

4(a). In addition to these duties, each Inspector General is required to submit to Congress semiannual reports extensively detailing the Inspector General's activities and findings from the preceding period. *Id.* at section 5.

To carry out these duties, Inspectors General are vested with wide-ranging authority. Among other things, they are allowed access to all records, documents, and other materials relating to their respective establishments that pertain to their duties, and are authorized to make such investigations and reports as they deem "necessary or desirable." *Id.* at section 6(a).

In discharging their authority, Inspectors General are to report to and be under the general supervision of the heads of the establishments to which they are assigned. However, the head of an establishment may not prohibit or prevent the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation. *Id.* at section 3(a).

The amendment would depart somewhat from the existing framework under the Inspector General Act. The Inspector General in the Executive Office of the President would be subject to the authority, direction, and control of the President with respect to audits or investigations or the issuance of subpoenas that require access to information in any of six categories.[1] The President would be permitted to prohibit such an audit, investigation, or subpoena, but only after the Inspector General had decided to initiate such action and only if the President determined that "the disclosure of that information would interfere with the core functions of the constitutional responsibilities of the President" and that "the prohibition is necessary to prevent the disclosure of that information,"*Id.* at section 3. If the President exercised this preventive power, he would be required, within 30 days, to submit in writing the reasons for the determinations regarding interference with constitutional responsibilities and the possibility of disclosure to the Inspector General. The Inspector General, in turn, would be required to transmit a copy of the President's submission to specified congressional committees. In addition, the Inspector General would be required to include a description of the episode in the public semiannual report.

These provisions would raise serious concerns about intrusion on the President's constitutional responsibilities. The Constitution assigns a variety of powers exclusively to the President. Examples include the powers to nominate Federal officers, grant reprieves and pardons, act as commander in chief, and receive ambassadors and other public ministers. *See* U.S. Const. art. II. Congress may not intrude upon the President's exercise of these exclusive powers. *See, e.g., Public Citizen* v. *United States Department of Justice*, 491 U.S. 440 (1988) (Kennedy, J., concurring); *Buckley* v. *Valeo*, 424 U.S. 1 (1976) (per curiam); *United States* v. *Klein*, 80 U.S. (13 Wall.) 128 (1872); *Ex Parte Garland*, 71 U.S. (4 Wall.) 333 (1866). Yet the amendment threatens just such an intrusion.

Even as to those exclusive powers encompassed within one of the six categories where the President may stop an audit, investigation, or subpoena, the bill would intrude upon the executive function. The Inspector General would have authority to investigate, audit, and issue subpoenas in these areas unless the President prevented the Inspector General from exercising the authority. The President could act only after the Inspector General decided to investigate, audit, or issue a subpoena, and even then, the President would have to make written findings and submit those findings to the Inspector General who would transmit them to Congress. In these findings, the President would have to determine that "disclosure" of the information would "interfere with the core functions of the constitutional responsibilities of the President." But where the President is exercising, or has exercised, exclusive constitutional authority, Congress is wholly without authority to imposed such requirements on the President or the President's advisors.

Furthermore, it is far from clear that all investigations, audits, or subpoenas concerning the exercise of exclusive constitutional powers would even fall within any of the six categories as to which the President would have preventive authority. For example, unless the deliberations of the President and his advisors regarding whom to nominate for a Federal office are "policy matters," the President would be without statutory authority to prohibit the Inspector General from performing investigations and audits of the exercise of that power or from reporting to Congress on these matters. Another example is the pardon power. Even if the grant of a reprieve or pardon is a "criminal . . . proceeding[]," this category applies only to "ongoing" proceedings. Thus, the bill would subject the President's deliberations on pardons that already have been granted to investigation and audit, and ultimately disclosure. The Constitution prohibits Congress from doing this.

With regard to those presidential powers that are not exclusive—powers in those spheres where Congress possesses authority to legislate—the doctrine of separation of powers still limits Congress's ability to adopt legislation that infringes on the President's constitutional role. In this area, a bill's validity depends on "the extent to which the bill prevents the Executive Branch from performing its constitutionally assigned functions." *Nixon* v. *Administrator of Gen. Servs.*, 433 U.S. 425, 443 (1977); see *Morrison* v. *Olson*, 487 U.S. 654 (1988); *CFTC* v. *Schor*, 478 U.S. 833 (1986). "Only where the potential for disruption is present must we then determine whether that impact is justified by an overriding need to promote objectives within the constitutional authority of Congress." Administrator of Gen. Servs., 425 U.S. at 443.

Here, where the bill would invade powers exclusively committed to the President, it is unnecessary also to identify all of the ways in which the bill could invalidly intrude on the President's powers that are not exclusive. Rather, we note only that the amendment would create a strong potential for extensive interference with the ability of the President to perform all of his constitutional functions. At the least, the necessity for the President's constant vigilance about possible intrusions on his exclusive powers would impede the President's discharge of his non-exclusive constitutional powers. As we have recently observed, "the Constitution's very structure suggests the importance of maintaining the 'hallmarks of executive administration essential to effective action.'" The Constitutional Separation of Powers between the President and Congress at 12 (May 7, 1996) (quoting *Myers* v. *United States*, 272 U.S. 52, 134 (1926)). Application of the Inspector General Act to the Executive Office of the President would seriously undermine this constitutional structure and this should be strongly resisted.

Thank you for the opportunity to present our views on H.R. 3452. The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

(For ANDREW FOIS,
Assistant Attorney General).

ANN M. HARKINS.

Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, I yield myself 30 seconds.

I just want to say to my dear colleague, who has been immensely helpful this year in getting much legislation out of our subcommittee, the role of the inspector general in the House might be somewhat limited, but I can recall that the inspector general reviewed all the travel accounts. I found the work he did immensely helpful in untangling financial filings between member offices, central services, so forth, what was done.

Having been an executive most of my life, I would certainly welcome that kind of staff support.

Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. CLINGER], our distinguished chairman of the full Committee on Government Reform and Oversight.

Mr. CLINGER. Madam Speaker, I thank the gentleman for yielding me the time and commend him for bringing this legislation to the floor. I also want to commend the gentleman from Florida [Mr. MICA], the subcommittee chairman, who is the principal author of the legislation, and the gentlewoman from New York [Mrs. MALONEY]. They have all done yeoman work, I think, in getting this legislation out.

Frankly, I did not think we would be able to achieve this goal as rapidly and as expeditiously as we have. So I am pleased to rise in support of this measure, the Presidential and Executive Office Accountability Act.

Madam Speaker, this bill extends to the White House 11 civil rights, labor, and employment laws which are currently applicable to Congress and the private sector in an effort to improve accountability and oversight in the White House. The bill extends the rights and protections under these laws to all covered employees, and permits administrative and judicial dispute-resolution procedures.

After many years on the Government Oversight Committee, the last 2 years as chairman, the one oversight tenet of which I am most supportive is that all public institutions should follow sound financial management practices, which

[1] The categories are ongoing criminal investigations or proceedings, undercover operations, the identity of confidential sources, deliberations and the decisions on policy matters, intelligence or counterintelligence matters, or other matters the disclosure of which constitute a serious threat to national security or cause significant impairment to the national interest. *See* section 3 (adding section 8F(a) to 5 U.S.C. app. 3).

includes the establishment of a chief financial officer organization, the preparation of annual financial statements, and the audit of those statements by an independent inspector general. Nearly every agency of the U.S. Government has implemented those practices, including the House of Representatives. The one Government organization which does not have sound management practices, but obviously needs it the most, is the Executive Office of the President.

I cannot think of a single White House scandal which could not have been avoided, or at least minimized, if the President could have called upon the help of a trusted inspector general. The secrecy of the health care task force, the waste and fraud at the White House Communications Agency, the political firings of the Travel Office workers, the abuse of private FBI files, the proliferation of the White House access passes to political friends and lobbyists, and the random and selective use of drug tests, could have all been avoided if a proper management structure was in place. We have accepted the concept of protecting workers' rights, of mandating financial statements, and establishing an inspector general at every other agency in the Government. It is time that the lead agency, the Office of the President, accept these reforms as well.

Now, to some who argue that this bill might interfere with the constitutional responsibilities of the President, let me assure you that every safeguard has been included to protect the ability of the President to perform his responsibilities. Using the statute creating an inspector general at the Central Intelligence Agency as a model, this legislation would allow the President to select his own inspector general and limit the scope of any investigation. In any regard, both the financial management and inspector general reforms included in this bill go only to the administrative functions of the Executive Office. Policymaking functions are not covered and, specifically, the inspector general has no authority to conduct any oversight into the policymaking responsibilities of the President or his staff.

Madam Speaker, I understand how in an election season, this bill could be easily misconstrued. I encourage my colleagues, however, to understand the sound reforms included in this legislation. Its provisions do not become effective until after the next Presidential election and its requirements are applicable to both Democrat and Republican office holders. I can think of no reason why, on policy grounds, this legislation should not receive the full endorsement of the House of Representatives.

Mr. HORN. Madam Speaker, I yield 5 minutes to the gentleman from New Hampshire [Mr. BASS] who is the author of the inspector general provision.

Mr. BASS. Madam Speaker, I rise today in strong support of H.R. 3452. This bill applies 11 civil rights employment and labor statutes to the White House. H.R. 3452 is a commonsense bill that mirrors the Congressional Accountability Act, which has been discussed before by previous speakers.

I also support H.R. 3452 because it includes my bill, the White House Inspector General Act, which I know my friend from New York has talked about in some detail in her discussion, which I introduced with the gentleman from Pennsylvania, Chairman CLINGER, and the gentleman from California, Mr. HORN.

My bill establishes an office of inspector general in the Executive Office of the President to serve as the principal watchdog of White House financial management procedures and fiscal resources. This provision not only provides the President with an essential tool for rooting out waste, fraud and abuse, but it also complements H.R. 3452's provision applying the Chief Financial Officer Act to the White House.

I would also like at this moment to thank the chairman of the committee, Congressman CLINGER, who has been a staunch supporter of this concept now for many years. As many of my colleagues know, the Inspector General Act of 1978 established inspectors general to protect the integrity of Federal programs and resources. IG's are appointed without regard to political affiliation and solely on the basis of a strong background in accounting, auditing, financial management or investigations.

They are provided with the authority and independence to perform audits and investigations in order to combat waste, fraud and abuse, and indeed the act has worked: 61 Federal entities today have IG's, including all 14 Cabinet departments. In 1994 IG investigations and audits led to over 14,000 successful criminal and civil prosecutions and returned $1.9 billion in investigative recoveries to the U.S. Treasury resulting in efficiency recommendations that would save a total of $24 billion.

My bill provides the White House IG the basic powers that all IG's are granted under the Inspector General Act of 1978, but it also includes special provisions that protect the constitutional prerogatives and operational effectiveness of the Presidency.

The first exemption ensures that the inspector general will not interfere in areas relating to policy, intelligence, national security interests or other sensitive matters. It will focus solely on fiscal financial management and abuses of power.

The second broad exemption ensures that the IG does not hinder the President in carrying out his constitutional responsibilities. The President would have broad and sweeping authority to prohibit the IG from, and I quote, interfering with the core functions of the constitutional responsibilities of the President.

Some have raised legitimate questions about this provision violating the separation of powers doctrine. The Justice Department, as was mentioned by my colleague from New York, raised concerns about the intrusion on the President's constitutional responsibilities. As she also mentioned, the CRS, Congressional Research Service, American Law Division, concluded, however, that the legislation should withstand a constitutional challenge due to the broad exemptions that I just explained.

Some have also objected to the provisions because they feel that it is a partisan attack on the White House. However, since the bill, as Chairman CLINGER mentioned, will not take effect until next year, it would impact either a Clinton administration or a Dole administration in an identical fashion. Despite what some might think, this is surely not a partisan issue.

This legislation is intended to institute a strong, effective and independent inspector general in the White House that balances the interests of both the President in carrying out his constitutional responsibilities and the Congress in conducting effective oversights of the executive branch and ensuring accountability.

In conclusion, Madam Speaker, inspectors general have a solid track record in rooting out waste, fraud and abuse. Establishing a White House IG will provide further Presidents, both Republican and Democrat, a useful tool in identifying and eliminating financial mismanagement and abuse in the White House.

I urge my colleagues to support passage of this bill.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

I would like to add to the RECORD an amendment that I offered at the subcommittee as a substitute to the Bass amendment, which would put forward in the White House the exact same IG that we have in the House of Representatives, in this Congress.

That amendment was defeated. It is true that my colleague on the committee pointed out that the House has an IG, but it is limited to financial audits of nonlegislative offices and reports only to the leadership. The Bass IG would go well beyond that, providing for program audits of all presidential activities and with reporting to Congress.

So I merely was trying to have the same oversight in both offices in the amendment that I put forward. I would like to put my amendment in the RECORD as a clarifying point, and also a comparison that I did on the Bass amendment and House rule VI for the Office of the Inspector General.

The amendment referred to previously is as follows:

Substitute amendment offered by Mrs. MALONEY for the amendment offered by Mr. BASS: At the end of the bill add the following new section:

SEC. . ESTABLISHMENT OF INSPECTOR GENERAL FOR EXECUTIVE OFFICE OF THE PRESIDENT.

(a) ESTABLISHMENT OF OFFICE.—There is established an Office of Inspector General in the Executive Office of the President

(b) INSPECTOR GENERAL.—The head of the Office shall be the Inspector General of the Executive Office of the President, who shall be appointed by the President.

(c) RESPONSIBILITIES.—Subject to the direction and control of the President, the Inspector General shall be responsible only for—

(1) conducting periodic audits of the financial and administration functions of the Executive Office of the President;

(2) informing officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(3) notifying the President in the case of any financial irregularity discovered in the course of carrying out responsibilities under this section;

(4) submitting to the President a report of each audit conducted under this section; and

(5) reporting to the President information involving possible violations by any official or other employee of any law applicable to the performance of official duties or the discharge of official responsibilities that may require referral to appropriate Federal or State authorities.

(d) ANNUAL REPORT.—The Inspector General of the Executive Office of the President shall annually submit a report to the President and the Congress regarding the activities of the Inspector General under this section.

Mrs. MALONEY. Madam Speaker, I reserve the balance of my time.

Mr. HORN. Madam Speaker, how much time do we have left on this side?

The SPEAKER pro tempore (Ms. GREENE of Utah). The gentleman from California [Mr. HORN] has 1½ minutes remaining, and the gentlewoman from New York [Mrs. MALONEY] has 12 minutes remaining.

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

Let me note in response to my colleague from New York the point that the chairman of the full committee made, that the inspector generalship in the White House has been tailored so it does not get into policy areas. It is exactly the relationship the inspector general of the House of Representatives has in terms of not getting into the Members' and policymaking functions here.

I would say that any Chief Executive of the United States, I would think, regardless of party, be they Republicans or Democrats, would want as two basic tools to help in his administration, or her administration, as it might be someday, the chief financial officer and the inspector general.

This legislation is long overdue. It would have saved several Presidents from scandals and, hopefully, it will save future Presidents from scandals. I urge my colleagues to support this measure, which has strong support, I know, by many in both parties. I hope we would have the votes because this is good public policy, and future Presidents will thank us, not condemn us, for passing it.

Mr. GOODLING. Madam Speaker, I rise in support of the Presidential and Executive Office Accountability Act. This act is a logical step following passage of the Congressional Accountability Act [CAA] in the earliest days of this Congress, in that it extends to the Executive Offices of the President the same employment protections which were made applicable to the Congress under the CAA. Passage of the CAA was an important step in showing that the Republican Congress would not proceed with "business as usual" and ended the status of Congress as the "last plantation."

As it turns out, the White House and its related offices are now, in fact, the "last plantation" and the Presidential and Executive Office Accountability Act will end this unacceptable, albeit little known, special status under the law. When we passed the CAA, the hope was that the Congress would learn the practical impact of these laws, therefore have a better understanding of how they really work, and thus be able to give better, more informed consideration to legislation in the employment area. Hopefully, the Presidential and Executive Office Accountability Act will have the same impact on those who develop policy at the highest level in the executive branch.

With regard to those provisions relating to the Federal Service Labor-Management Relations Act, I simply want to note that these provisions are modeled after those in the CAA and should be interpreted in the same manner. Thus, the Federal Labor Relations Authority should engage in extensive rulemaking to determine whether any employees in the offices cited should be exempted because of any of the three reasons listed—a conflict of interest; and appearance of a conflict of interest; or constitutional responsibilities.

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

Mrs. MALONEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 3452, as amended.

The question was taken.

Mr. HORN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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.

□ 1445

GENERAL LEAVE

Mr. HORN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3452, the bill just considered.

The SPEAKER pro tempore (Ms. GREENE of Utah). Is there objection to the request of the gentleman from California?

There was no objection.

WAR CRIMES DISCLOSURE ACT

Mr. HORN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1281) to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II, as amended.

The Clerk read as follows:

H.R. 1281

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) during the 104th Congress, Americans commemorated the 50th anniversary of the conclusion of the Second World War and the end of the Holocaust, one of the worst tragedies in history;

(2) it is important to learn all that we can about this terrible era so that we can prevent such a catastrophe from ever happening again;

(3) the Cold War is over;

(4) numerous nations, including those of the former Soviet Union, are making public their files on Nazi war criminals as well as crimes committed by agencies of their own governments;

(5) on April 17, 1995, President Clinton signed Executive Order 12958, which will make available certain previously classified national security documents that are at least 25 years old;

(6) that Executive Order stated: "Our democratic principles require that the American people be informed of the activities of their Government.";

(7) this year marks the 30th anniversary of the passage of the Freedom of Information Act;

(8) agencies of the United States Government possess information on individuals who ordered, incited, assisted, or otherwise participated in Nazi war crimes;

(9) some agencies have routinely denied Freedom of Information Act requests for information about individuals who committed Nazi war crimes;

(10) United States Government agencies may have been in possession of material about the war crimes facilitated by Kurt Waldheim but did not make this information public;

(11) it is legitimate not to disclose certain material in Government files if the disclosure would seriously and demonstrably harm current or future national defense, intelligence, or foreign relations activities of the United States and if protection of these matters from disclosure outweighs the public interest of disclosure;

(12) the disclosure of most Nazi war crimes information should not harm United States national interests; and

(13) the Office of Special Investigations of the Department of Justice is engaged in vital

work investigating and expelling Nazi war criminals from the United States, accordingly, the records created by these investigations and other actions should not be disclosed, and the investigations and other actions should not be interfered with.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. HORN] and the gentlewoman from New York [Mrs. MALONEY] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

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

Over a half century has passed since the ending of the Second World War and the revelation of the horrors of the Holocaust. The War Crimes Disclosure Act authored by my colleague, the gentlewoman from New York [Mrs. MALONEY], is intended to make available under the Freedom of Information Act records in the possession of Federal departments and agencies about individuals believed to have participated in Nazi war crimes. I join the bill's author, Representative MALONEY, in advancing this important legislation.

We are acting just a day after the Jewish high holiday of Yom Kippur, the Day of Atonement. All people of conscience can benefit from the careful contemplation of the past. Such reflection is a vital step toward a resolve to redress past wrongs and to do good in the future. For governments and their citizens to accomplish this, the facts, even painful facts, must be made public.

If we are not to forget the horrors of the Holocaust, and we must never do so, then we must make the records available, all the records of this dark, dark period in human history.

I am appreciative of the role of historians as stewards of our past. Their work on this terrible period is far from complete. We must assist them by making these records available. Information about contacts once maintained with Nazi war criminals must finally be disclosed.

Some words of clarification are necessary about the amendment before the House. The Committee on Government Reform and Oversight passed a version of H.R. 1281 which provided for the mandatory disclosure of this information pursuant to the provisions of the Freedom of Information Act, or FOIA, as it is called.

Normally under the Freedom of Information Act, national security records are exempt from disclosure. H.R. 1281 as reported by the Committee on Government Reform and Oversight would have required a careful balancing of the public interest when the national security exemption was applied to the records of alleged Nazi war criminals.

Since the committee's action, Mrs. MALONEY, the Representative from New York, and I have worked with the Permanent Section Committee on Intelligence and the Central Intelligence Agency to refine the language of H.R. 1281 to address the national security considerations. Unfortunately, we have not been able to resolve the sensitive questions about the extent and nature of judicial review of agency or Freedom of Information Act determinations and the appropriate treatment of the more recently created records.

Consequently, I join the gentlewoman from New York [Mrs. MALONEY] in proposing an amendment with substitute language which expresses, and I quote:

It is the policy of the Congress that the United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public.

I expect in the next Congress to continue to work together with Representative MALONEY and others to advance the release of records held by the Federal Government departments and agencies concerning Nazi war criminals. I am confident that an appropriate balancing of interests can be found.

As the author of H.R. 1281, the gentlewoman from New York [Mrs. MALONEY] has provided active leadership in using the Freedom of Information Act to learn more about the information in Federal Government files about Nazi war criminals.

Madam Speaker, I reserve the balance of my time.

Mrs. MALONEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I first want to thank my friend, the gentleman from California, Chairman HORN, and his fine staff and my fine staff for all of their hard work on bringing this measure to the floor. I want to thank the gentleman from Texas, Chairman COMBEST, and the gentleman from Washington, Mr. DICKS, ranking member of the Permanent Select Committee on Intelligence for their assistance. I also want to thank our former colleague, Elizabeth Holtzman, not only for her efforts on this bill but for a career spent in pursuit of justice and human rights, dating back to her pioneering legislation on Nazi war criminals.

Madam Speaker, this is a somewhat bittersweet moment. Chairman HORN and I had wanted to bring forward H.R. 1281 as reported, which unanimously passed the Committee on Government Reform and Oversight. This bill which I have been working on for nearly 3 years would end a tremendous loophole in the Freedom of Information Act which currently allows Government agencies to block the release of information on Nazi war crimes. Although we have a carefully crafted bill, which protects legitimate national security, the CIA strenuously objected to the legislation and has effectively killed it in this Congress.

Given that half a century has passed since the end of World War II and given that the cold war is over, I find it outrageous that the CIA would block a bill which would help us shed light on the Holocaust, the darkest moment in the history of man's inhumanity to man.

But bringing this substitute sense of Congress resolution to the floor today, we will put the House on record in support of the principles of our bill and we will set the stage for the passage of binding legislation in the next Congress.

Madam Speaker, I am indebted to A.M. Rosenthal of the New York Times for his series of articles he wrote about secret U.S. Nazi war crimes files. I am also thankful for the advice and assistance of professor Robert Herzstein of the University of South Carolina who has cataloged the celebrated case of Kurt Waldheim. For years the CIA was keeping its information on Waldheim a secret, even as the Department of Justice was placing him on the watch list of individuals forbidden to enter the United States. It is not difficult to imagine how history might have been changed if Waldheim's secret past had become public. Most notably, he probably would not have been elected to the post of Secretary General of the United Nations, one of the most shameful events in the history of that world body.

And Waldheim's outrageous story continues. In his recent autobiography, he continues to whitewash his Nazi past and blames the American Jewish community for his banishment from the United States. I drafted H.R. 1281 to ensure that the entire Waldheim file is finally disclosed. It is also my hope that the enactment of this bill will help those who research the horrors of the Holocaust to ensure that cases like Waldheim do not occur again.

Madam Speaker, some of what we might learn in U.S. Government files may not be pleasant. Evidence exists, for example, that our Nation actively recruited Nazis and facilitated their entry into the country to pursue early cold war objectives. But as we quote in this resolution, President Clinton's Executive Order 1212958, which represents a strong step forward in the declassification of national security documents states, and I quote, "Our democratic principles require that the American people be informed of the activities of their government."

Madam Speaker, this is the spirit of the Freedom of Information Act which this year turns 30 years old. FOIA has been a great tool to historians, studying World War II and the Holocaust.

But all too often U.S. intelligence, defense, and foreign relations agencies deny FOIA requests, citing outdated exemptions that are simply no longer valid in the post-cold war era.

Our bill as reported would have required the release of this material but would have exempted disclosure of files that would have seriously harmed current or future national security concerns.

Our bill would have ended the longstanding practice of routine denial by the CIA of freedom of information requests about Nazi war crimes, by placing the CIA under the judicial review requirements of other government agencies. What this means is that researchers who present the CIA with reasonable FOIA requests, only to have them denied, would be able to turn to the Federal courts for final ruling. Our bill would not have interfered with the outstanding work of the Office of Special Investigations, which has a long track record of exposing and expelling Nazi war criminals from our country.

Madam Speaker, during the past several days, as I have been attempting to get H.R. 1281 to the floor, the Nation has learned some very interesting facts from previously classified historical documents. For example, we learned last week from a 40-year-old document that our government knew about U.S. prisoners of war held by North Korea during the Korean war.

We also learned from World War II documents that millions of dollars in gold looted by the Nazis is currently sitting in the Federal Reserve Bank of New York.

These two revelations may be disturbing but learning about our Nation's past, disturbing as it might be, to teach us how to govern in the future is the essence of democracy. And this is the essence of the resolution we are debating today. We can never heed Santayana's warning that, and I quote, "Those who do not remember the past are condemned to repeat it," if we do not have the proper historical tools.

Madam Speaker, yesterday Jews all over the world celebrated Yom Kippur, the Day of Atonement. This is a day of somber reflection about the past. In my district and in countless others, thousands of these individuals are survivors of the Holocaust and their families. These people can never escape the searing memories of what befell them half a century ago.

In passing this resolution, we honor the memory of those who died and the suffering of those who survived. In passing this resolution, we are taking a stand against those who insult humanity by denying the very fact that the Holocaust occurred. And in passing this resolution, we must pledge that before another year goes by, we will ensure that our government's full accounting of this terrible era and its aftermath is made public.

I ask my colleagues to support our resolution calling for the release of Nazi war crime files.

Madam Speaker, I reserve the balance of my time.

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

I received a letter from the chairman of the Permanent Select Committee on Intelligence, our distinguished colleague, the gentleman from Texas [Mr. COMBEST]. I want to include that letter for the RECORD:

HOUSE OF REPRESENTATIVES, PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, September 23, 1996.

Hon. STEPHEN HORN,
Chairman, Subcommittee on Government Management, Information, and Technology, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you regarding the War Crimes Disclosure Act, H.R. 1281. As reported, H.R. 1281, contained a number of provisions that would amend the Freedom of Information Act (FOIA) and would effect long standing federal case law and rule of judicial deference to intelligence and law enforcement executive agency expertise in national security matters.

The Committee is committed to declassifying older intelligence documents, in particular those pertaining to Nazi war criminals. I specifically requested that the Central Intelligence Agency review this legislation to reach an agreement satisfying the concerns of the intelligence agencies as well as meeting the public's right to receive information about Nazi criminals that may be contained within U.S. intelligence files.

I am in receipt of the Sense of Congress substitute for H.R. 1281 that reiterates the commitment we all feet concerning the disclosure of information related to Nazi war crimes. Recognizing that you and Representative Maloney desire to bring this legislation to the House floor expeditiously, the House Permanent Select Committee on Intelligence will forego its right to sequential referral in this instance. Further, I am committed to working with you to craft new legislation that meets the desire of the American people to know about Nazi criminal acts while protecting legitimate national security interests.

Thank you for your attention to this matter.

Sincerely,

LARRY COMBEST,
Chairman.

Mr. HORN. Madam Speaker, I want to quote two paragraphs there that are relevant to the measure before us. Chairman COMBEST assures me:

The committee is committed to declassifying older intelligence documents, in particular those pertaining to Nazi war criminals. I specifically requested that the Central Intelligence Agency review this legislation to reach an agreement satisfying the concerns of the intelligence agencies as well as meeting the public's right to receive information about Nazi criminals that may be contained within U.S. intelligence files.

He goes on to say:

I am in receipt of the Sense of Congress substitute for H.R. 1281 that reiterates the commitment we all feel concerning the disclosure of information related to Nazi war crimes. Recognizing that you and Representative Maloney desires to bring this legislation to the floor expeditiously, the House Permanent Select Committee on Intelligence will forego its rights to sequential referral in this instance. Further, I am committed to working with you to craft new legislation that meets the desire of the American people to know about Nazi criminal acts while protecting legitimate national security interests.

Madam Speaker, I deeply appreciate the word of the chairman of the Permanent Select Committee on Intelligence. As a citizen and as a Member of this Congress, I cannot imagine any executive branch under any administration wanting, after almost a half century has passed, to keep the files that relate to specific war crimes committed during the Second World War.

□ 1500

Madam Speaker, this is a fine piece of legislation that the gentlewoman from New York [Mrs. Maloney] has offered. We are delighted to support it on this side.

Madam Speaker, I yield back the balance of my time.

Mrs. MALONEY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 1281, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to express the sense of the Congress that United States Government agencies in possession of records about individuals who are alleged to have committed Nazi war crimes should make these records public."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HORN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 1281, the important legislation just passed.

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

There was no objection.

GRANTING CONSENT OF CONGRESS TO THE EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Mr. GEKAS. Madam Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 193) granting the consent of Congress to the Emergency Management Assistance Compact.

The Clerk read as follows:

H.J. RES. 193

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Emergency Management Assistance Compact entered into by Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia. The compact reads substantially as follows:

"Emergency Management Assistance Compact

"ARTICLE I.

"PURPOSE AND AUTHORITIES.

"This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term 'states' is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

"The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

"This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

"ARTICLE II.

"GENERAL IMPLEMENTATION.

"Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

"The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

"On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

"ARTICLE III.

"PARTY STATE RESPONSIBILITIES.

"A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

"1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

"2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

"3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

"4. Assist in warning communities adjacent to or crossing the state boundaries;

"5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

"6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

"7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

"B. The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

"1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

"2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed; and

"3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

"C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

"ARTICLE IV.

"LIMITATIONS.

"Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

"Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

"ARTICLE V.

"LICENSES AND PERMITS.

"Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

"ARTICLE VI.

"LIABILITY.

"Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

"ARTICLE VII.

"SUPPLEMENTARY AGREEMENTS.

"Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

"ARTICLE VIII.

"COMPENSATION.

"Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the

same manner and on the same terms as if the injury or death were sustained within their own state.

"ARTICLE IX.

"REIMBURSEMENT.

"Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

"ARTICLE X.

"EVACUATION.

"Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

"ARTICLE XI.

"IMPLEMENTATION.

"A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

"B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

"C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

"ARTICLE XII.

"VALIDITY.

"This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

"ARTICLE XIII.

"ADDITIONAL PROVISIONS.

"Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under §1385 of Title 18 of the United States Code.".

SEC. 2. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The consent granted by this joint resolution shall—

(1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;

(2) not be construed as consent to the National Guard Mutual Assistance Compact;

(3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;

(4) not be construed as providing authority in Article III A.7. that does not otherwise exist for the suspension of statutes or ordinances;

(5) be construed as understanding that Article III C. does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and

(6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by article I of the Constitution and title 10 of the United States Code.

SEC. 3. CONSTRUCTION AND SEVERABILITY.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

SEC. 4. INCONSISTENCY OF LANGUAGE.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Virginia [Mr. SCOTT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

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

Madam Speaker, this is a unique type of legislation that comes before us here today, one that symbolizes the willingness of Americans to help other Americans in trouble. We have seen hurricane after hurricane pounding the east coast and other areas of the country, and we see the phenomenon of people rushing from other areas not hit by the hurricanes to render assistance to those who are without homes, whose residences are flooded, whose businesses are afloat, whose shorelines have been severely damaged. They come from all over the United States and volunteer or in other ways render assistance to the Americans, our fellow Americans who have been grievously injured or hurt and even sometimes at the cost of lives undergo these natural disasters.

Well, a long time ago the Southern Governors Conference adopted an enterprise in which the southern Governors with their respective States entered into a compact to render assistance, one to another, when such a natural disaster would occur, and this has led us to this day where they want to formalize a compact among the several States who are part of the Southern Governors Conference and others who were not previously members of that organization, to enter into this businesslike enterprise in which aid can be called for by one member State and the other States can respond when a natural calamity occurs.

It is one which raises the hopes of everyone that this would lead to even greater units of States getting together in such a compact, and because the Constitution requires that such a compact between two States or more must be approved by the Congress, we are here on the floor today.

The cosponsors of this legislation, the gentleman from South Carolina [Mr. INGLIS] and the gentleman from Virginia [Mr. SCOTT], members of the subcommittee, played an important role in fashioning the compact that is before us.

Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume, and I rise in support of the bill.

The Emergency Management Assistance Compact sponsored by the Southern Governors Association is a commonsense approach to strengthening a State's ability to respond and protect its citizens when disaster strikes.

Recently my district suffered severe damage from the winds and floods crated by Hurricane Fran. This was not the first and unfortunately will not be the last hurricane to hit the Commonwealth of Virginia. The out-of-State support we received, both public and private, in the recovery effort was essential. The people and organizations who immediately provided assistance made the personal shot easier to bear

and has allowed economic recovery to start quicker.

As Virginians, we, too, recognize the need to support other States that suffer natural disasters. Hurricanes Andrew and Hugo, Bob and Eloise, all brought Virginia humanitarian aid and volunteers to those disaster sites. Good Samaritans from Virginia and many other States, either under an organized charity or individually, give assistance to those who suffer great loss. State governments also provide assistance in the form of public utility and law enforcement personnel, and give emergency supplies and equipment.

This compact, created by the Southern Governors Association and modeled on the existing arrangement for the Island of Puerto Rico, assures that financial mechanisms are in place to cover State costs. That way the public funds collected and dedicated for the expenses within one State may in an emergency be used to support residents of another State. When that occurs, the Emergency Management Assistance Compact specifies how reimbursement will be accomplished.

This agreement has been 3 years in the making, and it is appropriate at this time to thank some of those responsible for bringing this issue to Congress. I want to recognize: Mr. Addison E. Slayton, Jr., and George Urquhart of the Department of Emergency Services, and the Commonwealth of Virginia particularly because Virginia was the first State to agree to the compact; David McMillion, director of Maryland Emergency Management; Tom Feuerborn, the director of the Oklahoma Emergency Management Agency; Eric Tolbert, the bureau chief for Preparedness and Response and the Florida Division of Emergency Management; and John Carey from FEMA's general counsel who was also very much involved.

I also want to express my thanks to the gentleman from Pennsylvania [Mr. GEKAS] and to my colleague, the gentleman from Rhode Island [Mr. REED], the ranking member of the subcommittee, who helped us to quickly bring this bill to the floor and to the congressional staffs that manage this issue. I also wish to thank Mr. Douglas Monroe, the senior policy analyst from the Southern Governors Association, for the past 3 years of constant effort to bring the compact and the congressional action to completion.

As a compact between States, the Constitution requires congressional approval of this arrangement, and I am happy to join my friend from South Carolina, Mr. INGLIS, the sponsor of the bill, in urging this body to approve the joint resolution.

Madam Speaker, I yield back the balance of my time.

Mr. GEKAS. Madam Speaker, I yield myself 1 minute just for one purpose, to demonstrate the scope of this compact. I simply want to repeat the States that are part of the compact:

Delaware, Florida, Georgia, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, and West Virginia.

Madam Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. INGLIS], the chief architect of the compact.

Mr. INGLIS of South Carolina. Madam Speaker, I thank the gentleman for yielding me this time, and also I want to thank the gentleman for moving this bill so very quickly through the committee. I certainly appreciate his help in seeing that that is done in a very expeditious way. I also want to thank the gentleman from Virginia [Mr. SCOTT] for his coauthoring this bill. It is something that really we are simply giving effect to the very good work of the Governors Association, Southern Governors Association particularly, and they have worked very hard, folks in South Carolina particularly. Stan McKinney, who is the emergency preparedness director in South Carolina, has worked very hard on this, and I am very happy that we now in the Congress are giving effect to that compact, and to see the cooperation that is happening here today is really refreshing and very rewarding.

So basically, Madam Speaker, this bill accomplishes the approval of the compact entered into among the States that the chairman just read. The compact essentially handles two very important areas that heretofore have been a little bit murky.

First, it deals with the compensation questions about, for example, if South Carolina sends aid to North Carolina after the occurrence of Hurricane Fran, the question is about compensation of the South Carolina National Guard in North Carolina. That is handled by this compact. There is a procedure set up such that South Carolina and North Carolina work that out in advance, and they know how the work is going to be accomplished, how it is going to be paid for.

The second thing that the compact does is it deals with the question of liability for, following that same example, the National Guard troops from South Carolina operating in North Carolina. The question heretofore has been, what kind of liability do those troops have in North Carolina?

This compact, well worked out by the Southern Governors Association, answers that question by saying that when this South Carolina National Guard is in North Carolina at the request of the State of North Carolina, they are agents of the State of North Carolina and, therefore, enjoy sovereign immunity of the State of North Carolina, and it is governed, any actions there will be governed, by the laws of the State of North Carolina.

All of that accomplishes a great deal because it means that States will now be much more able to send assistance and to know in advance what kind of situation they will find there.

So I think that the Congress is doing a good thing, the House is doing a good thing this day, I hope, in passing this bill in a very expeditious manner, and then hopefully the other body will follow suit very quickly.

The reason that it is important to do this relatively quickly is as, we all know, those of us from coastal States particularly, we are in the midst of hurricane season. We have seen several hurricanes come up the east coast already this year. We hope that no others make their way that way for the rest of the season, but if they do, we will be in a position to help one another and to respond to those emergencies that exist.

Mr. GEKAS. Madam Speaker, will the gentleman yield?

Mr. INGLIS of South Carolina. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Madam Speaker, the gentleman may recall that we delved into, during the course of the hearing that we held on this matter, the question of liability insofar as it touched upon volunteers that go from State to State, and I recounted then, and I do now, several instances where my fellow Pennsylvanians went to the aid of the coastal States on many different occasions and were recipients of similar aid. We know that liability here, as he has described it, as the gentleman from South Carolina has described it, has to do with the league of entities, but what about the volunteers? What does the gentleman see? I would like the RECORD to reflect for future proposals or agreements that might be reached on volunteers.

Mr. INGLIS of South Carolina. Madam Speaker, I thank the gentleman for that question. As he knows, during our hearing we discussed the possibility that the States might want to entertain further action under good samaritan laws, such that they could entertain that question or answer that question. It would make a whole lot of sense because, for example, after the aftermath of Hurricane Hugo our State received tremendous assistance from a number of other States, I am sure, including the great State of Pennsylvania, and that is a very significant part of our American experience, is helping people in our places.

So I would say to the gentleman that the work that should go forth there, to answer his question there, has to do with the State legislatures dealing with their good samaritan laws to handle the situation where a volunteer comes into the State of Pennsylvania, for example, from South Carolina to offer assistance, be governed by the good samaritan laws of the State of

Pennsylvania. This, of course, is different, in that here in the situation we are describing here, the State of North Carolina may be requesting the State of South Carolina to send its organized National Guard troops to North Carolina, and that is what this compact is.

But I agree with the gentleman that it would be very helpful to have very clear good samaritan laws that deal with a volunteer not under direction of the Governor of the State going to another State to offer assistance.

Mr. GEKAS. Madam Speaker, it strikes me that perhaps the gentleman from South Carolina, the gentleman from Virginia, and I, in the next session, if the electorate so chooses to return us to this Chamber, might want to seek out the same southern Governors' experience to determine perhaps where uniform set of laws among the several States on the good samaritan laws.

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

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 193.

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.

GRANTING CONSENT OF CONGRESS TO AMENDMENTS TO WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the resolution (H.J. Res. 194) granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact, as amended.

The Clerk read as follows:

H.J. RES. 194

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

The Congress consents to the amendments of the State of Maryland (chapter 252, 1995 Acts of the Maryland General Assembly and chapter 489, 1996 Laws of Maryland), the amendments of the Commonwealth of Virginia (chapter 150, 1995 Acts of Assembly of Virginia), and the amendments of the District of Columbia (D.C. Law 11–138) of title III of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are substantially as follows:

(1) Section 3 is amended to read as follows:

"Washington Metropolitan Area Transit Zone

"3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington, Fairfax, and Loudoun and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located in said counties.".

(2) Subsection (a) of section 5 is amended to read as follows:

"(a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia, by the Council of the District of Columbia; and for Maryland, by the Washington Suburban Transit Commission. For Virginia and Maryland, the Directors shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with their term on the appointing body. A Director may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.".

(3) Subsection (a) of section 8 is amended to read as follows:

"(a) Four Directors or alternates consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board present and voting, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two Signatories.".

(4) Subsection (b) of section 14 is amended to read as follows:

"(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical committees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process and the Mayor and Council of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations or amendments thereof.".

(5)(A) Paragraph (1) of subsection (a) of section 15 is amended to read as follows:

"(1) The Mayor and Council of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;".

(B) Paragraph (3) of subsection (a) of section 15 is amended to read as follows:

"(3) the transportation agencies of the signatories;".

(C) The last paragraph of section 15 is amended to read as follows:

"(b) A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of the Board and shall be available for public inspection. Information with respect thereto shall be released to the public. After thirty days' notice published once a week for two successive weeks in one or more newspapers of general circulation within the zone, a public hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The thirty days' notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such meeting and may make any changes in the proposed plan, amendment or revision which it deems appropriate and such changes may be made without further hearing.".

(6) Subsection (a) of section 70 is amended to read as follows:

"(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the Authority or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Mayor and Council of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing bodies of the political subdivisions located within the Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.".

(7) Section 73 is amended to read as follows:

"Contracting and Purchasing

"73. (a)(1) Except as provided in subsections (b), (c), and (f) of this section, and except in the case of procurement procedures otherwise expressly authorized by statute, the Authority in conducting a procurement of property, services, or construction shall:

"(A) obtain full and open competition through the use of competitive procedures in accordance with the requirements of this Section; and

"(B) use the competitive procedure or combination of competitive procedures that is best suited under the circumstances of the procurement.

"(2) In determining the competitive procedure appropriate under the circumstances, the Authority shall:

"(A) solicit sealed bids if:

"(i) time permits the solicitation, submission, and evaluation of sealed bids;

"(ii) the award will be made on the basis of price and other price-related factors;

"(iii) it is not necessary to conduct discussions with the responding sources about their bids; and

"(iv) there is a reasonable expectation of receiving more than one sealed bid; or

"(B) request competitive proposals if sealed bids are not appropriate under clause (A) of this paragraph.

"(b) The Authority may provide for the procurement of property, services, or construction covered by this Section using competitive procedures but excluding a particular source in order to establish or maintain an alternative source or sources of supply for that property, service, or construction if the Authority determines that excluding the source would increase or maintain competition and would likely result in reduced overall costs for procurement of property, services, or construction.

"(c) The Authority may use procedures other than competitive procedures if:

"(1) the property, services, or construction needed by the Authority is available from only one responsible source and no other type of property, services, or construction will satisfy the needs of the Authority; or

"(2) the Authority's need for the property, services, or construction is of such an unusual and compelling urgency that the Authority would be seriously injured unless the Authority limits the number of sources from which it solicits bids or proposals; or

"(3) the Authority determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement; or

"(4) the property or services can be obtained through federal or other governmental sources at reasonable prices.

"(d) For the purpose of applying subsection (c)(1) of this section:

"(1) in the case of a contract for property, services, or construction to be awarded on the basis of acceptance of an unsolicited proposal, the property, services, or construction shall be deemed to be available from only one responsible source if the source has submitted an unsolicited proposal that demonstrates a concept:

"(A) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability to provide the service; and

"(B) the substance of which is not otherwise available to the Authority and does not resemble the substance of a pending competitive procurement.

"(2) in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment or the continued provision of highly specialized services, the property, services, or construction may be deemed to be available from only the original source and may be procured through procedures other than competitive procedures if it is likely that award to a source other than the original source would result in:

"(A) substantial duplication of cost to the Authority that is not expected to be recovered through competition; or

"(B) unacceptable delays in fulfilling the Authority's needs.

"(e) If the Authority uses procedures other than competitive procedures to procure property, services, or construction under subsection (c)(2) of this section, the Authority shall request offers from as many potential sources as is practicable under the circumstances.

"(f)(1) To promote efficiency and economy in contracting, the Authority may use simplified acquisition procedures for purchases of property, services and construction.

"(2) For the purposes of this subsection, simplified acquisition procedures may be used for purchases for an amount that does not exceed the simplified acquisition threshold adopted by the Federal Government.

"(3) A proposed purchase or contract for an amount above the simplified acquisition threshold may not be divided into several purchases or contracts for lesser amounts in order to use the procedures under paragraph (1) of this subsection.

"(4) In using simplified acquisition procedures, the Authority shall promote competition to the maximum extent practicable.

"(g) The Board shall adopt policies and procedures to implement this Section. The policies and procedures shall provide for publication of notice of procurements and other actions designed to secure competition where competitive procedures are used.

"(h) The Authority in its discretion may reject any and all bids or proposals received in response to a solicitation.".

(8) Section 81 is amended to read as follows:

"Jurisdiction of Courts

"81. The United States District Courts shall have original jurisdiction, concurrent with the Courts of Maryland, Virginia and the District of Columbia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State or District of Columbia Court shall be removable to the appropriate United States District Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).".

(9) Section 84 is amended to read as follows:

"Amendments and Supplements

"84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others. When one signatory adopts an amendment or supplement to an existing section of the Compact. that amendment shall not be immediately effective, and the previously enacted provision(s) shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other signatories and is consented to by Congress.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Virginia [Mr. SCOTT] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

□ 1515

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore (Mr. GUNDERSON). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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

Mr. Speaker, I rise in support of House Joint Resolution 194, as amended, and urge its adoption. The gentleman from Virginia [Mr. DAVIS] has very expertly presented to the committee a full review of the existing structure about which we speak here today on the Transit Authority, and also about the problems that it has met over the last several years. His testimony went a long way in projecting us to this moment on the floor with respect to this compact.

I repeat that the Constitution requires that when two or more States enter into any kind of an agreement which flowers into a compact, as it were, then that compact, that contract, must be approved by the Congress. Thus, we have the States of Virginia and of Maryland cooperating with the District of Columbia in ferreting out a series of problems and advantages that can be gained or met by the existence of this authority. The gentleman from Virginia [Mr. DAVIS] will elucidate the RECORD on the need for this particular compact.

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

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

I rise in support of the joint resolution, Mr. Speaker.

Mr. Speaker, House Joint Resolution 194 would grant the consent of Congress to the amendments to the Washington Metropolitan Area Transit Regulation Compact. Mr. Speaker, as has already been indicated, this consent is needed because the Constitution requires congressional consent for compacts between States, and obviously this involves Maryland, Virginia, as well as the District of Columbia.

The compact has been amended five times since its creation in 1967. The amendments before us today primarily conform the procurement practices to recently enacted Federal procurement reforms. The amendments have been approved by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia. House Joint Resolution 194 was introduced by my colleague, the gentleman from Virginia [Mr. DAVIS], and was cosponsored by all of the Members representing the Washington Metropolitan Area.

Mr. Speaker, House Joint Resolution 194 was reported by the Subcommittee on Commercial and Administrative Law by a voice vote, and I know of no opposition to this legislation.

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

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, the resolution before us today, House Joint Resolution 194, would grant the consent of Congress to amendments made by the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact. The Compact Amendments that are being proposed today govern how the Washington Metropolitan Area Transit Authority [WMATA], better known as Metro, conducts its daily operations as a transit provider.

The Washington Metropolitan Area Transit Authority was established in

1967 by Congress when it consented to an Interstate Compact created by Virginia, Maryland, and the District of Columbia. The authority was established to plan, finance, construct, and operate a comprehensive public transit system for the Metropolitan Washington area. Today, Metro operates 1,439 buses and 764 rail cars serving the entire National Capital region. The Metrorail system, sometimes called America's Subway has 89 miles and 74 stations currently in service. Over the next several years, Metro will construct another 13.5 miles of the rail system, with the planned 103-mile rail system being completed in 2001.

The WMATA Compact has been amended five times since its inception. The amendments that are before the House today are a sixth set of amendments that will enable the transit agency to perform its functions more efficiently and cost effectively.

DESCRIPTION OF AMENDMENTS

The proposed amendments primarily, and most importantly, modify the Authority's procurement practices to conform with recently enacted Federal procurement reforms. Currently, the Authority must use a sealed bid process in purchasing capital items. As you can imagine, the Authority conducts extensive procurements in constructing the rail system. The proposed amendments will enable Metro to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process. This amendment is particularly important as a means for the Authority to reduce its costs.

The transit agency will be better able to define selection criteria and eliminate costly items from bid proposals. If a prospective contractor recommends a change in a bid specification, under the proposed amendment the Authority will be able to take advantage of this cost savings.

The proposed amendment will also allow the Authority to raise its simplified purchasing ceiling from $10,000 to the Federal level. The Federal Transit Administration, part of the U.S. Department of Transportation, has encouraged States and localities to raise the dollar threshold for small purchases to $100,000 to come into conformity with Federal procedures. The Authority and the jurisdictions it serves strongly endorse this proposed amendment, allowing the Authority to conduct its business in an efficient, businesslike manner, rather than being required to publish voluminous bid specifications, even on small purchases. Under this revision, WMATA will be able to publish a simplified bid specification and accept price quotations, thus streamlining its procurement procedures. Given inflation rates over the past several years, this amendment provides a much better definition of "small purchase" for a Government agency.

Finally, there are several administrative matters addressed in the proposed Compact Amendments that are certainly of a housekeeping nature. These amendments are largely codifications and clarifications of current practices. They relate to, for example, the primacy of D.C. Superior Court in cases involving WMATA, and the definition of a quorum at WMATA Board meetings.

In closing, I would like to thank the Judiciary Committee and its Subcommittee on Commercial and Administrative Law for their expeditious handling of this resolution. These amendments are of the utmost importance to the Washington Metropolitan Area Transit Authority.

I appreciate the Judiciary Committee's willingness to move this matter along so that we can assist the Authority in its constant effort to reduce costs. As Metro reduces its cost, it can use its limited public resources to provide more and better service to the citizens of the national capital region and to the millions of visitors to the Washington area each year. I hope my colleagues will join me in supporting House Joint Resolution 194.

Mr. Speaker, in closing, I would like to thank the Committee on the Judiciary and its Subcommittee on Commercial and Administrative Law for their expeditious handling of this resolution. These amendments are of the utmost importance to the Washington Metropolitan Area Transit Authority.

To the gentleman from Pennsylvania [Mr. GEKAS] and to the gentleman from Virginia [Mr. SCOTT], who has been a long-time supporter of this system in the State legislature, I appreciate their willingness to move this matter along so we can assist the authority in its constant efforts to reduce costs. As Metro reduces its costs, it can use its limited public resources to provide more and better services to the citizens of the Nation's capital and to the region and to the millions of visitors to the Washington area each year. I ask for its support.

Mrs. MORELLA. Mr. Speaker, I rise in support of House Joint Resolution 194 which will help the Washington Metropolitan Area Transit Authority [WMATA] conduct its daily business in a more efficient and cost-effective manner. The proposed amendments already have been approved by the State of Maryland, the Commonwealth of Virginia, and the District of Columbia. The consent of Congress is required in order for the amendments to become effective.

WMATA, more commonly known as Metro, was created in 1967 when Maryland, Virginia, and the District entered into an interstate compact which was approved by Congress. This is the fifth action to amend the WMATA compact since its inception.

The amendments contain several housekeeping measures which are largely clarifications of current practices mainly of interest to the Authority. The most important amendment would modify the Authority's procurement practices to comply with recently enacted Federal procurement reforms. The Authority has been using a sealed bid process to purchase capital items. Metro's procurement process has been called an anachronism by the Federal Transit Administration [FTA] and it's time for a change. House Joint Resolution 194 will allow Metro to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process. Most importantly, this alternative will allow WMATA to reduce its costs.

In addition, the proposed amendment will allow WMATA to raise the ceiling on simplified purchasing from $10,000 to $100,000 which conforms with Federal procedures. This will allow Metro to cut out several costly steps in the procurement process for small purchases.

I want to praise and thank Congressman TOM DAVIS for his efforts to bring these important amendments to the House floor in a timely manner. It is important to help Metro reduce its costs in order to provide more and even better service to commuters in the Washington metropolitan region and to the thousands of visitors to the Nation's Capitol each year. Americans visiting Washington surely will be impressed by the safe, clean, reliable system they will use to reach the Smithsonian Museums, the White House, and Capitol Hill.

AMENDMENTS TO THE WMATA INTERSTATE COMPACT FACT SHEET

BACKGROUND

The Washington Metropolitan Area Transit Authority was created in 1967 by the State of Maryland, the Commonwealth of Virginia, the District of Columbia entering into an Interstate Compact consented to by the U.S. Congress. The Authority was created to plan, finance, construct and operate a comprehensive public transit system for the metropolitan Washington area. The Compact has been amended four times since its inception. The Authority is proposing a fifth set of amendments to the Compact in order to allow the transit agency to perform its functions more efficiently and cost effectively.

The proposed amendments have been enacted by the three signatories (Maryland, Virginia and the District of Columbia) and require the consent of the Congress in order for the amendments to become effective.

PROCUREMENT REFORM

The most important proposed amendment modifies the Authority's procurement practices to conform with recently enacted Federal procurement reforms. Currently, the Authority must use a sealed bid process on capital items. The proposed amendment will enable the Authority to engage in competitive negotiations on capital contracts, as an alternative to the sealed bid process, resulting in a far more flexible and productive contracting system. This amendment will allow the Authority to essentially do more with less, by reducing paperwork and the time involved in the procurement process.

During the Federal Transit Administration's (FTA) review of the WMATA procurement process, the Authority's procurement approach was cited as an "anachronism". The FTA's regulations have allowed competitive procurement since enactment of the Federal Competition in Contracting Act in 1984.

The proposed changes will result in the Authority having fewer bid rejections and cancellations of solicitations. WMATA will be

better able to define selection criteria and eliminate costly items from bids. If a prospective contractor recommends a way to change the specification to reduce the costs of that procurement, the Authority will be able to take advantage of this cost savings.

The proposed amendment will also allow the Authority to raise the ceiling on simplified purchasing from $10,000 to the federal level. The FTA has published a circular encouraging States and localities to raise the dollar threshold for small purchases to $100,000 to come into conformity with federal procedures. This amendment will enable the Authority to eliminate several costly steps in the procurement process for small purchases, such as printing a voluminous invitation for bid and waiting 30 days for bids. Instead, WMATA will be able to publish a simplified bid specification and accept written or oral price quotations. Given inflation over the past two decades, the proposed simplified purchasing procedures provide a more accurate definition of small purchase.

ADMINISTRATIVE PROCEDURES

The Amendments contain several "housekeeping" matters of interest to the Authority. These amendments are largely codifications and clarifications of current practices including:

Designation of Loudoun County as being within the Transit Zone. This codifies an existing agreement between WMATA and Loudoun County to include the county in the WMATA transit service area.

Deletes references to the Commissioners of the District of Columbia.

Clarifies that where a quorum of the WMATA Board is present, a majority of the quorum may take action, if each signatory is represented among the prevailing vote.

Codifying the current understanding that the Superior Court of the District of Columbia has original jurisdiction concerning WMATA cases.

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

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

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING BOMBING IN DHAHRAN, SAUDI ARABIA

Mr. SPENCE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 200) expressing the sense of the Congress regarding the bombing in Dhahran, Saudi Arabia, as amended.

The Clerk read as follows:

H. CON. RES. 200

Whereas on June 25, 1996, a terrorist truck bomb outside a military housing compound in Dhahran, Saudi Arabia, killed 19 members of the Armed Forces and wounded hundreds of others;

Whereas the members of the Armed Forces killed and wounded in the bombing were defending the national security interests of the United States;

Whereas the defense of United States national interests continues to require the forward deployment of members of the Armed Forces to other countries;

Whereas the members of the Armed Forces are called upon to perform duties that place their lives at risk from terrorist elements hostile to the United States;

Whereas global terrorism has demonstrated no respect for the historic rules of war, no reluctance to strike against innocent and defenseless individuals, and a willingness to engage in tactics against which conventional defenses are difficult;

Whereas it is the duty of the President and the military chain of command to take all necessary steps to keep members of the Armed Forces protected and as safe as the nature of their mission permits;

Whereas the people of the United States stand with those who have volunteered to serve their country and grieve at the loss of those who, to quote Lincoln, "have given their last full measure of devotion" to the security and well-being of the United States;

Whereas those members of the Armed Forces serving in Saudi Arabia and around the world demonstrate valor and a faith in the American way of life that reflects honorably not only on themselves but upon the country that they represent; and

Whereas the military personnel who lost their lives on June 25, 1996, in the bombing in Dhahran died in the honorable service of their Nation and exemplified all that is best and most virtuous in the American people: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

That Congress hereby—

(1) recognizes the 19 members of the Armed Forces who died in the terrorist truck bombing in Dhahran, Saudi Arabia, on June 25, 1996, and honors them for their service and sacrifice;

(2) calls upon the Nation to hold fast the memory of those who died;

(3) extends its sympathies to the families of those who died; and

(4) assures the members of the Armed Forces serving anywhere in the world that their well-being and interests will at all times be given the highest priority.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from South Carolina [Mr. SPENCE] and the gentleman from California [Mr. DELLUMS] each will control 20 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

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

GENERAL LEAVE

Mr. SPENCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution now under consideration.

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

There was no objection.

Mr. SPENCE. Mr. Speaker, on June 25, 1996, a terrorist bomb attack against a government housing compound in Dhahran, Saudi Arabia, resulted in the death of 19 American service members and the wounding of 200 others. This attack demonstrated that terrorism directed against Americans is a continuing threat, and that our men and women in uniform are often at great risk because of the nature of their mission.

Today the House has before it House Concurrent Resolution 200, a bill authored by my colleague and valued member of the House Committee on National Security, the gentleman from Florida [Mr. SCARBOROUGH], that recognizes and honors the ultimate sacrifice paid by the 19 American service members who died in this cowardly attack. I believe this bill is a fitting tribute for the House to make, and I urge my colleagues to support it.

Mr. Speaker, last week the Committee on National Security held a hearing to review the Saudi terrorist bombing, the conclusions reached by the Department of Defense's own investigation, and the appropriate measures necessary to ensure that United States forces deployed abroad would be better prepared to deal with similar attacks in the future.

The committee heard from Secretary of Defense Perry, Joint Chiefs of Staff Chairman General Shalikashvili, and retired Gen. Wayne Downing, who headed the independent task force charged with investigating the bombing. The conclusions of General Downing's study were consistent with the findings of our committee report released last month.

Mr. Speaker, both reports noted the need for greater tactical intelligence to be used on the terrorist threat to United States forces, and the conduct of Operation Southern Watch as a temporary contingency mission, when it is in reality a long-term operation, and both cited numerous institutional and organizational shortcomings that contributed to the tragedy that resulted in the death of 19 brave Americans.

General Downing's report also found fault at all levels of the chain of command, a conclusion accepted by Secretary of Defense Perry during his testimony before our committee.

Mr. Speaker, House Concurrent Resolution 200 properly notes that we have important and legitimate national security interests in Saudi Arabia and the Middle East that justify our continued presence. The bill also notes the danger posed to American national interests and personnel by the threat of global terrorism. I believe it deserves the unanimous support of all House Members.

I once again want to commend the legislation's author, the gentleman from Florida [Mr. SCARBOROUGH], for his diligent efforts to bring this legislation to the House floor. Thanks to his commitment, we are here today ensuring that the brave Americans whose

lives were lost in the Khobar Towers bombing are never forgotten by this House.

Mr. Speaker, I include for the RECORD a copy of the report from the Committee on National Security.

The report referred to is as follows:

THE KHOBAR TOWERS BOMBING INCIDENT—EXECUTIVE SUMMARY

The terrorist bombing that killed 19 American military personnel, wounded more than 200 others, and harmed hundreds more Saudi soldiers and civilians in and around the Khobar Towers complex in Dhahran, Saudi Arabia on June 25, 1996 exposed more than the physical vulnerability of Americans serving abroad. It exposed the shortcomings of a U.S. intelligence apparatus that left Americans unprepared for the threat that confronted them. It exposed significant problems of continuity and cohesion in the units deployed for Operation Southern Watch. And it exposed the risks to U.S. military personnel deployed on contingency operations where political and cultural sensitivities of the host country are significant factors.

The ability to acquire and process accurate and timely intelligence is critical to the successful execution of any military mission. It is equally essential for force protection—especially in a world of increasing terrorist threats. The dearth of reliable intelligence on the terrorist threat, coupled with the inability to extrapolate from the intelligence that was available, even after the Riyadh bombing in November 1995, was one of the primary factors contributing to the Khobar Towers tragedy. Because intelligence regarding terrorist threats is more often than not incomplete and uncertain, both intelligence analysts and military operators must recognize it for both what it is and is not and hedge in developing force protection and operation plans.

In the case of the Khobar Towers bombing, problems resulting from incomplete intelligence on the terrorist threat were exacerbated by numerous operational and organizational shortcomings that limited the ability of Joint Task Force-Southwest Asia to effectively protect against the increased terrorist threat. In particular, short tours of duty, even for senior commanders, compromised the ability of deployed units to properly address the urgent need to make long-term security improvements.

Commanders, their staffs and security personnel also need greater continuity if they are to bring stability to organizations that currently face constant personnel turbulence and to develop effective personal and professional relations with Saudi officials with whom they must work. Because the various sensibilities of the host nation often conflict with or complicate the operations of U.S. forces deployed overseas, American military and political leaders must remain vigilant for potential problems.

Intelligence and organizational shortcomings are a growing hallmark of "temporary" or "contingency" missions that in reality become long-term commitments. Despite the fact that Operation Southern Watch has been ongoing since 1992 and the probability of Iraqi compliance with UN resolution is low, Saudi and American leaders and the U.S. Air Force observed and perpetuated the illusion of a "temporary" operation. The Department of Defense needs to review other ongoing contingency operations to ensure that similar perceptions are not compromising force protection needs or jeopardizing U.S. security interests. The proposed movement of significant numbers of U.S. military personnel to more secure quarters now agreed to by the United States is clearly warranted, if not overdue.

STAFF REPORT—AUGUST 14, 1996

On June 25, 1996, a terrorist's bomb exploded at the Khobar Towers housing compound in Dhahran, Saudi Arabia, killing 19 American service personnel, wounding more than 200 others, killing at least one Saudi civilian and injuring hundreds of other civilians. The force of the explosion was so great it heavily damaged or destroyed six high rise apartment buildings and shattered windows in virtually every other structure in the compound, leaving a crater in the ground 85 feet wide and 35 feet deep. The blast was felt 20 miles away in the Persian Gulf state of Bahrain. It was the worst terrorist attack against Americans in more than a decade.

The Khobar Towers complex is home for the airmen of the 4404th Fighter Wing (Provisional) of the U.S. Air Force, part of the U.S. Central Command (USCENTCOM), and coalition forces from the United Kingdom, France, and Saudi Arabia participating in Operation Southern Watch, the United Nations effort to enforce the "no-fly" and "no-drive" zones in Iraq south of the 32nd parallel. Because the bombing was directed specifically at Americans with such devastating effect, it has led to questions concerning the security of U.S. military personnel in Saudi Arabia and in other regions of the world.

At the request of Chairman Floyd Spence, a staff delegation of the House National Security Committee traveled to Dhahran and visited the site of the bombing from July 10–13, 1996 as part of the committee's investigation of the incident. The delegation spent several days interviewing field commanders, being briefed by those responsible for security measures, and speaking with the military personnel who played a critical role just prior to and immediately after the blast. The staff also sought interviews with Saudi officials and FBI agents in theater, but as the staff's visit coincided with the Saudi weekend and Sabbath, the Saudis did not provide anyone to be interviewed. Likewise, the staff delegation was unable to interview Department of Justice officials, who responded that any disclosure of information could compromise the integrity of their ongoing investigation. (A copy of a letter from Attorney General Janet Reno is included as Appendix A. A complete list of individuals who were interviewed is included as Appendix B).

The Khobar Towers bombing tragedy calls into question more than just the safety of American military forces in Saudi Arabia. It also raises issues related to the conduct of the Operation Southern Watch mission, the importance of accurate intelligence on terrorist activities and capabilities, the sufficiency of the operational command structure, and the appropriate balance between the need to protect American personnel stationed abroad and the desire not to challenge the sovereignty or offend the sensibilities of host countries who have granted American forces conditional rights to deploy on their territory. What follows is an unclassified summary of the staff's observations and findings regarding the Dhahran incident.

THE BOMBING INCIDENT

On June 25, 1996, at approximately 2200 hours Dhahran local time, a fuel truck laden with an estimated 3,000–5,000 pounds of explosives approached the northwest end of the Khobar Towers compound from the north and turned east onto 31st Street just outside the perimeter fence separating the compound from a public parking lot. The truck, and a car that it was following, continued to travel along the perimeter fence toward the northeast corner of the compound. Staff Sergeant Alfredo Guerrero, present at an observation site on the roof of Building 131, at the northeast corner, spotted the suspicious car and fuel truck as they continued to travel along the perimeter fence toward their location. When the vehicles reached Building 131, they turned left, pointing away from the building, and stopped. The fuel truck, positioned behind the car, began to back up into the hedges along the perimeter fence directly in front of Building 131. Staff Sergeant Guerrero's suspicion was confirmed when two men emerged from the truck and quickly got into the car, which then sped away. At this point, he radioed the situation to the security desk and began, along with the other two guards on the roof, to evacuate the building.

Emergency evacuation procedures then began for Building 131 as the three security personnel ran door to door, starting from the top floor and working their way down, knocking loudly on each door and yelling for the resident to evacuate. Three to four minutes after the truck had backed up against the perimeter fence, the bomb exploded, ripping off the entire front facade of the eight-story building. Khobar Towers residents and officials of the 4404th Fighter Wing, the provisional U.S. Air Force unit conducting Operation Southern Watch, were unanimous in their belief that quick action on the part of the guards, who had only been able to work their way down several floors of the building, helped saved the lives of a number of residents of Building 131. Many residents of Building 131 were caught in the building's stairwells at the moment of the explosion, which may have been the safest place to be, in the estimation of engineers and security experts on the scene. However, the force of the blast demolished the building and severely damaged five adjacent buildings. Nineteen American service personnel were killed and more than 200 injured. Hundreds of Saudi and third country nationals living in the complex and immediate vicinity were also wounded.

The bomb blast blew out windows throughout the compound and created a crater 85 feet wide and 35 feet deep. The blast was felt as far away as Bahrain, 20 miles to the southeast. Most of the buildings in the "American sector" of the Khobar Towers complex suffered some degree of damage. While residents of Khobar Towers, 4404th Fighter Wing leaders, and U.S. intelligence experts conclude that Americans were the target of the terrorists, and the damage was extensive, an even greater number of casualties might have occurred had the driver positioned the truck differently against the fence and had not at least one row of "Jersey" barriers of the kind used in construction and on U.S. highways been present to absorb or deflect part of the blast away from the lower level of Building 131. Senior leaders of the wing, after consultation with their engineers and with investigators at the scene, have concluded that this arrangement helped to prevent the collapse of the lower floors of the building. Had the lower floors and thus, the entire building, collapsed, the number of fatalities likely would have been much greater.

THE KHOBAR TOWERS COMPOUND

Khobar Towers is a series of high-rise apartment buildings comprising approximately 14 city blocks. U.S. forces occupy a portion of these buildings on the north end

of the complex stretching roughly two and one half blocks. Other buildings house troops from the multinational forces participating in Operation Southern Watch, in particular the British, French, and Saudi militaries, while some buildings are also used for Saudi civilian housing. There is only one main access route into and out of the compound.

The buildings were originally built in the 1970s as shelters for Bedouins, but remained vacant until the time of the Persian Gulf War. During the war and in its aftermath, American military forces operated out of a military airbase located near Dhahran's commercial airport, where the facilities were rudimentary and quarters cramped. During the war, the Saudis offered to house U.S. troops at Khobar Towers. Accommodating the 500,000 U.S. troops who participated in the Gulf War, even on a temporary basis, called for the use of every possible facility. After the war, the Saudis offered continued use of space in the Khobar Towers to coalition forces conducting Operation Southern Watch, and U.S. forces have been housed in Khobar Towers for the past six years.

The complex is located in the midst of an urban environment, laced with residential and commercial areas and mosques. On the north end is the public park and parking lot where the June 25 bombing took place. The urban setting of the complex creates unique security difficulties, and establishing perimeters is particularly challenging. The nearest perimeter fence was along the north end, only about 85 feet from several residential structures in the complex; a long perimeter fence on the east side was slightly further out, but still relatively close to the Khobar Towers buildings. And the perimeter marking the U.S. part of Khobar Towers from the other military and civilian housing runs down the middle of a four-lane street. Prior to the bomb blast, Air Force security officials at the complex had identified the perimeter fence as one of the more serious physical security concerns in conducting antiterrorism vulnerability assessments.

Use of a general alarm system

The Khobar Towers buildings themselves are of sturdy construction, built with a minimum of combustible material and consequently without a fire alarm system. There has been speculation as to whether a central alarm system should have been installed and operational at the time of the blast to reduce reaction and evacuation times. The opinion of Air Force security officials is that a fire alarm would not have made a substantial difference, and might even have added to the confusion and worked against any attempts to inspire sleeping troops with a sense of urgency about the suspected bomb threat. For general alarm purposes, the Air Force uses a loudspeaker system in Khobar Towers called "Giant Voice." However, on the night of June 25, there was insufficient time to activate it. In fact, commanders and security officers at Khobar Towers have concluded that a central alarm system is unlikely to have reduced the number of fatalities or injuries the night of the blast, given that it was only a matter of a few minutes between the time evacuation procedures began and the detonation. A number of people survived the blast by being in the stairwell when it occurred. Had a general alarm been sounded, it is possible that more people would have exited the building and would have been at greater risk from the blast's effects. Although the windows in many of the buildings were blown out, not a single building collapsed from structured damages as a result of the bomb. Even Building 131, outside of which the bomb detonated, remained standing, although the face of the building was completed sheared off.

Vulnerability of the compound

In sum, the Khobar Towers apartment complex, and the American portion within, is an inherently vulnerable location to terrorists threats. The decision recently reached by the United States and Saudi Arabia to move Operation Southern Watch and other American military personnel to a more remote location is a sound decision. Factors cited in press reports as contributing to vulnerabilities of the complex and contributing to casualties—the lack of a fire alarm, delays in activating the Giant Voice, for example—are of marginal importance, at least in the judgment of Khobar Towers residents and security officers in the 4404th Fighter Wing. These security officers and senior wing leaders also said that a more raid evacuation may have done more harm than good, exposing more troops to the effects of the blast. Troops housed in an urban environment, with limited perimeters, are inviting targets for terrorist attack. While no location is entirely immune to terrorism, the vulnerabilities of Khobar Towers made the risks especially high.

THE SECURITY SITUATION PRIOR TO JUNE 25, 1996

Prior to the November 13, 1995 bombing of the Office of the Program Manager of the Saudi Arabian National Guard (OPM-SANG) in Riyadh, the Saudi capital, American intelligence and U.S. military leaders considered the risks to U.S. forces in Saudi Arabia as low. While terrorist threats against the United States are not unusual in the region, until recently terrorist activity in Saudi Arabia has been considered sporadic and rare. In particular, the threat from internal Saudi factions and dissidents was rated low by the U.S. intelligence community. The Saudi ruling family enjoys generally widespread support, based upon its extensive system of state-run social services, its largesse with its oil wealth, and its very conservative interpretation and strong support of Islam. Moreover, the ruling Al-Saud royal family brooks no dissent. The Saudi system of justice is swift and sure: public executions are the norm for serious crimes and beheadings are not uncommon. The Saudi approach to justice has long been seen as a deterrent to crime and to those who would violate the tenets of Islam.

Second, despite the cultural sensitivities aroused by U.S. leadership of and participation in the Gulf War, Americans have long operated in Saudi Arabia on a routine, albeit restricted, basis. The ARAMCO oil concern employs tens of thousands of U.S. citizens, and other Westerners also work in the Kingdom generally without incident. Internal dissent aimed at the Saudi regime did not, until very recently, begin to make a link between the ruling regime and the U.S. military presence.

The OPM-SANG bombing and its aftermath

Both the Saudi and American belief that Saudi Arabia was an unlikely venue for anti-American terrorist activity was shattered on November 13, 1995, when a car bomb exploded outside the headquarters of the OPM-SANG mission. The building was used by American military forces as a training facility for Saudi military personnel. The car bomb contained approximately 250 pounds of explosives. Five Americans were killed in the OPM-SANG bomb blast and 34 were wounded. Until then, terrorist actions against Americans in the Kingdom had been considered unlikely by the U.S. intelligence community.

As a result of the OPM-SANG bombing, security measures were stepped up at installations where American troops maintained a presence throughout Saudi Arabia. The U.S. intelligence community reviewed its analysis of threats to American military forces and the results of that analysis were factored into the subsequent vulnerability assessment that was conducted for the wing commander by the Air Force's Office of Special Investigations (OSI). As with all Air Force installations, routine vulnerability assessments of Khobar Towers and other facilities in Saudi Arabia were conducted by OSI every six months. The most recent vulnerability assessment prior to the June 25 bombing at Khobar Towers was completed in January 1996 and identified numerous security shortcomings. As a result of the OPM-SANG bombing, the threat condition for American forces in Saudi Arabia was raised from THREATCON ALPHA—the second lowest threat condition—to THREATCON BRAVO, the next highest threat condition. Consistent with this increased threat situation, additional security measures were implemented at the Khobar Towers facility in Khahran. (An explanation of the various Threat Conditions is attached as Appendix C.) Security officials held weekly meetings to discuss and review security procedures, and also conveyed bi-monthly security forums with participation of British and French coalition forces.

Incidents at Khobar Towers

Since November 1995, security forces at Khobar Towers recorded numerous suspicious incidents that could have reflected preparations for a terrorist attack against the complex. Much of the suspicious activity was recorded along the north perimeter of Khobar Towers, which bordered on that portion of the complex used to house Americans. Several incidents involving individuals looking through binoculars at the complex were reported. On one occasion, an individual drove his car into one of the concrete Jersey barriers along the perimeter, moving it slightly, and then drove away. This may have been an effort to determine whether the perimeter could be breached. Other incidents reflected the heightened state of security awareness. For example, a suspicious package, which turned out to be non-threatening, was noticed on May 9, 1996, in the elevator of Building 129 and led to the building's evacuation. (As Colonel Boyle, the 4044th's Support Group commander noted, buildings were evacuated no less than ten times since the November OPM-SANG bombing.)

While a number of incidents could have reflected preparations for an attack on Khobar Towers, there was no specific intelligence to link any of them to a direct threat to the complex. Again, this peculiar position of U.S. forces in Saudi Arabia complicated the ability of security officials and intelligence analysts to reach definitive conclusions. Security officials at Khobar Towers remain unsure whether surveillance by outsiders was anything more than an attempt by local Saudis to observe the culturally different Americans in Western attire. In one incident involving shots fired outside the compound, it was determined that teenage boys were firing a new rifle and no threat to the compound was intended. Nevertheless, the number of reported incidents and the heightened state of alert after the OPM-SANG bombing led security officials and wing leaders to reassess the security situation within the complex.

Security enhancements implemented in spring 1996

In response to these local incidents and following the November 1995 OPM-SANG bombing, Brigadier General Terryl Schwalier, commander of the 4404th Fighter Wing (Provisional) initiated a number of security enhancements that included the placement of additional concrete Jersey barriers around the Khobar Towers perimeter, staggered barriers, or "serpentines," along the main entrance to the complex; and the posting of guards on rooftops. Additionally, bomb dogs were employed, Air Force and Saudi security patrols were enhanced, the entry gage to the compound was fortified, and access was restricted. In March 1996, General Schwalier met with Lieutenant Colonel James Traister, the wing's new Security Police Squadron commander, to discuss measures to prevent penetration of the compound. Although the two officers discussed a range of security threats, security efforts focused on preventing a penetration of the complex itself, and in particular, the threat of a car bomb.

In March, Lieutenant Colonel Traister conducted an additional, personal assessment of the compound's vulnerabilities to terrorist action. He subsequently presented his recommendations to General Schwalier, who accepted all of them. In April, Colonel Boyle and Lieutenant Colonel Traister initiated a series of additional counterterrorism measures. These included posting additional guards on the roofs, laying seven miles of concertina wire along the compound perimeter, and trimming vegetation on the compound side of the perimeter fence. Security forces increased their patrols, working 12–14 hour shifts 6 days a week. Staff Sergeant Guerrero noted that security patrols were losing every third break because they were helping to fortify the perimeter. Overall, numerous additional security enhancements were implemented beginning in April. Among the most visible were substantial guard pillboxes built from sandbags mounting machine guns to protect the main entrance. Lieutenant Colonel Traister also initiated monthly security group meetings with representatives of the other coalition forces in Khobar Towers. Several security police said they originally believed Lieutenant Colonel Traister was "crazy" because of his obsession with security enhancements at the compound.

Expansion of the security perimeter

Colonel Boyle dealt directly with his Saudi security counterparts regarding the issue of the compound perimeter, which was located less than 100 feet from several housing units along the north end of the compound. On two occasions—in November 1995 and March 1996—Colonel Boyle said he asked Saudi security forces for permission to extend the perimeter. The Saudi security forces responded that doing so would interfere with access to a public parking lot that was adjacent to public park and mosque, stating that the property was owned by Saudi government ministries and that they did not have the authority to approve such a move on their own. While never flatly refusing to extend the perimeter, the Saudis continued to assert that the existing perimeter was sufficient against the baseline threat of a car bomb similar to the Riyadh OPM-SANG bombing, and they did not act to accommodate the U.S. request. Instead, they offered to increase Saudi security patrols both inside and outside the compound, and to run checks of license plates in response to American concern over suspicious vehicles.

Neither Colonel Boyle nor General Schwalier said they considered the issue of perimeter extension to be of sufficient urgency to necessitate the intervention of higher authorities. This belief was based upon at least two factors, they said. First, they did not consider the Saudi reluctance to act on the U.S. request as unusual, given the generally slow pace of Saudi society and previous experiences in achieving expeditious Saudi action. As a result of the perceived need not to offend their Saudi hosts by demanding quick resolution of problems to American satisfaction, the perimeter extension issue remained open. Second, both were consumed by the need to quickly implement the required security improvements within the compound, as well as by their numerous other duties. Both General Schwalier and Colonel Boyle said that their priorities were to accomplish what was needed within Khobar Towers first before turning to additional enhancements that would require long-term negotiation and did not necessarily promise the desired outcome.

Thus, General Schwalier, Colonel Boyle, and Lieutenant Colonel Traister continued to work through the checklist of other measures that could be implemented without the prior approval of the Saudis and that would mitigate some of the vulnerabilities presented by the perimeter fence problem. The aforementioned OSI vulnerability assessment conducted in January 1996 recommended 39 specific security enhancements to the compound. However, extension of the perimeter was not identified as a recommended security fix by either the July 1995 or the January 1996 vulnerability assessment and was, therefore, not pursued with great urgency or elevated up the chain of command for higher-level intervention.

Assessment of actions taken and not taken

After the November 1995 Riyadh bombing, security became a major focus of activity within the 440th Fighter Wing, with more than 130 specific actions taken in response to the vulnerability assessments that were conducted in July 1995 and January 1996. Given command priorities, actions that could be accomplished unilaterally were taken relatively quickly—actions such as trimming the hedges on the U.S. side of the perimeter fence to increase visibility along the compound perimeter. Other actions requiring greater funding were considered as part of a five-year plan for security improvements. This included placing Mylar coating on all windows to reduce the impact of a bomb blast by limiting the shattering and fragmentation of glass windows and doors. In retrospect, had Mylar been available at the time of the blast, it is possible that some casualties might have been avoided. Even had the bomb been within the parameters of the device used in the November 1995 OPM-SANG attack, untreated windows and sliding glass doors in the Khobar Towers apartments still would have been vulnerable to the blast effects. Likewise, the heavier "blackout" curtains that had already been approved for acquisition but not yet installed would likely have lessened casualties resulting from shattered glass.

General Schwalier said he did not consider a relocation of troops from the more exposed locations within the vulnerable buildings to interior quarters further away from the perimeter. While in retrospect such a relocation might have saved lives, prior to the blast relocation was not considered a priority due to the threat perception that discounted the prospect of a bomb the size of the one that ultimately exploded outside Building 131. Relocation also would have resulted in disruptions to the operations—residents were housed by military unit in order to maintain some cohesion and some apartments were used as offices—and a decrease in the quality of life for personnel having to "double-up" in living quarters. Given the small size of the American sector of the Khobar Towers complex, consolidating personnel to a degree that would have produced substantial security improvements—such as vacating the entire outer ring of apartment buildings exposed to the perimeter—would have involved measures not perceived as warranted by the threat situation.

Overall, theater military commanders exercised an aggressive and proactive approach to security in the wake of the OPM-SANG bombing in November 1995. Indeed, some residents of Khobar Towers believe it is possible that the bombers struck when they did because they saw a window of opportunity closing. Lieutenant Colonel Traister's security enhancements following the OPM-SANG bombing were visible and extensive—they would not have gone unnoticed by anyone planning to attack the compound.

General Schwalier and other leaders in the 4404th Fighter Wing clearly did not press the Saudis for timely action to resolve specific U.S. security concerns. While the issue of Saudi cultural and political sensibilities is treated more fully below, the decision not to elevate these concerns to a higher level of decision-making must be seen in the context of the overall environment in which U.S. forces found themselves. Wing leaders were impressed by their superiors and in turn impressed upon their troops the need for a cooperative relationship with Saudi officials and Saudi society in general. The command is imbused with a desire not to unnecessarily offend Saudi cultural or political norms.

HOST COUNTRY SENSIBILITIES

As with any U.S. military deployment abroad, there is a need to strike an appropriate balance between the military requirement for force protection and the political and diplomatic requirements to understand and work within the cultural norms of the host country. Under the best of circumstances in Saudi Arabia, this is not an easy balancing act, although in some cases, security needs of U.S. forces are consistent with Saudi preferences. For example, the recent agreement to relocate U.S. forces to a more remote location at Al Khari initially stemmed from a suggestion made by the Saudis.

At Khobar Towers, residents commented about their Saudi hosts and the challenges of working through issues with them. The Saudi approach to resolving issues is informal, indirect and seeks measured consensus rather than quick, clear decisions. As a result, to Americans the Saudi decision-making process seems to lack a sense of urgency. Moreover, many of those interviewed expressed frustration at the seeming lack of Saudi attention to important security details prior to June 25. A common element in the comments was that the Saudis did not take security as seriously as the Americans.

The very presence of American forces in the Kingdom is considered by some Saudis to be sacrilegious and an affront to Islam. Additionally, the strong U.S.-Saudi military relationship has increasingly been exploited by political dissidents in Saudi Arabia, under the ostensible guise of religious observance but often for different reasons. Consequently, the ruling family has sought to keep the American presence as segregated as possible from Saudi society. A visible display

of U.S. "decadence"—particularly women with exposed skin or driving vehicles—is an affront to traditional Saudis, and therefore a political problem for the ruling family. In such an environment, it is difficult to ensure that U.S. military personnel are treated fairly and can do their jobs effectively, without insulting the sensibilities or culture of their hosts, and possibly risking the internal political consensus that sanctions U.S. troop deployments.

These cultural differences can have serious security implications. For example, in the late spring of 1996 U.S. forces requested that the Saudis trim back the vegetation that was growing up along the fence around the perimeter of the Khobar Towers complex. The Saudis refused to do so for cultural reasons. The overriding U.S. concern was security—Americans guards needed an unobstructed view of activity along the outside perimeter of the complex. However, the Saudis desired to keep American activity out of view of the average Saudi citizen. In this case, the Americans trimmed the vegetation on the compound side of the perimeter fence and employed security forces on top of selected building to enhance observation. The Saudis did not trim the vegetation on their side.

Many of the vulnerabilities that were identified by the OSI January 1996 vulnerability assessment required corrective action that could only be taken with the support of the Saudis. For example, stepping up identification checks outside the compound, trimming vegetation outside the perimeter, and running license plate checks on suspicious vehicles required the active cooperation and participation of Saudi security authorities. Some of these measures were accomplished, some were not, and some, such as license plate checks, were only accomplished intermittently.

From the standpoint of domestic politics the Saudis wish to ensure that the American military presence is perceived as temporary rather than permanent. For example, there is no formal "status of forces" agreement between the Americans and the Saudis, as is the case in many other nations where American troops are forward deployed, that comprehensively defines the rights and responsibilities of U.S. forces and the host nation. Rather, the U.S. presense in Saudi Arabia is delineated by a series of "stationing" agreements covering individual deployments and extending back to 1953. This complex series of arrangements requires certain adjustments in the operational activities of the deployed forces. For example, extraordinary care is taken to ensure that the flight operations of Southern Watch and crafted to minimize the effects on Saudi society, to the point of changing course to avoid flying over Saudi princes' palaces. These arrangements also complicate the force protection mission. For example, the relationship between U.S. security police and their Saudi counterparts has remained intentionally informal and ad hoc.

The political and cultural sensitivities of the Saudis are impressed upon U.S. forces from the day they arrive for duty. For instance, in his "Commander's Inbriefing," presented to all newly arriving troops, General Schwalier outlined the standards of the 4404th Wing. "General Order Number One" was presented as "respecting our hosts.

THE ROLE OF INTELLIGENCE

One of the primary factors contributing to the loss of American life from the bombing at Khobar Towers was the lack of specific intelligence regarding the capabilities of the terrorists who carried out the June 25 attack. Therefore, significant questions have been raised concerning the adequacy of intelligence collection, analysis and the ability to recognize the limits of the intelligence upon which the 4404th Fighter Wing planned its security measures.

The threat baseline

Prior to the Riyadh bombing of October 1995, U.S. threat analyses considered the likelihood of a terrorist incident against Americans in Saudi Arabia very low. In the words of Major General Kurt Anderson, commander of Joint Task Force-Southwest Asia (JTF-SWA), the threat was portrayed as coming from an isolated terrorist incident, "not by large, organized groups." It was also based on what intelligence analysts considered to be a "demonstrated capability." This analysis formed the threat "baseline" that was used in the July 1995 OSI vulnerability assessment.

According to General Anderson, the Riyadh bombing "changed the rules of the game." The threat analysis conducted after OPM-SANG incident concluded that there was a much higher likelihood of terrorism targeted at U.S. forces. The size of the Riyadh device—approximately 250 pounds of explosives—also was a surprise. However, the analysis conducted after the OPM-SANG bombing did not allow that terrorist groups were capable of building a device larger than the Riyadh car bomb.

The Riyadh attack put everyone within the theater on high alert, and the frequency of terrorist incidents within the region seemed to increase. A number of these involved small bombs set off in Bahrain that apparently were related to internal problems there and not to the situation in Saudi Arabia. Increased security awareness at Khobar Towers also revealed what looked like a pattern of surveillance of the facility. In November 1995, and in January, March and April 1996, Air Force security police reported a number of incidents, including Saudis taking photographs and circling the parking lot adjacent to the north perimeter, but they were uncertain about their linkage. Also in the spring, a car bumped and moved the Jersey barriers at the Khobar Towers perimeter, which security police interpreted as a possible test of the perimeter's strength.

In retrospect, other incidents also were suggestive. In January, the U.S. Embassy in Riyadh issued a public advisory noting that it had received "disturbing reports that additional attacks may be planned against institutions identified with the United States and its interests in Saudi Arabia." In March there was an unconfirmed intelligence report that a large quantity of explosives was to be smuggled into Saudi Arabia during the Hajj, the pilgrimage to Mecca which draws huge numbers of Muslims to the Kingdom every year. Also, on March 29, a car was seized at the Saudi-Jordanian border with 85 pounds of explosives. Perhaps more significant than the amount of explosives was the fact that they were very expertly concealed within the car's engine compartment. Throughout the spring a number of other reports involving bomb materials were received by U.S. intelligence. Finally, in May, when the Saudis convicted the four men for the Riyadh bombing and sentenced them to death, the U.S. Embassy released another advisory reporting threats of "retaliation against Americans in Saudi Arabia" if the men were executed.

To General Anderson, these incidents did not represent a "road map" leading from the OPM-SANG bombing in Riyadh to the Khobar Towers bombing. However, taken together with other information available to U.S. intelligence and suggesting the possibility of more sophisticated terrorist capabilities, the pattern of incidents suggests there may have been substantial shortcomings in the U.S. ability to process accurately intelligence regarding the terrorist threat to U.S. forces inside Saudi Arabia.

Intelligence collection

While the precise extent of U.S. intelligence gathering operations inside Saudi Arabia cannot be discussed within the context of an unclassified report, commanders in the theater said they lacked adequate insight into internal Saudi society or the terrorist threat and prized highly the few independent intelligence sources they possessed. Further, given the increasing sophistication of the devices and the operations employed by terrorist groups operating in Saudi Arabia, which suggested to intelligence experts that those responsible for the bombings were most likely part of larger, well-connected organizations, the difficulties facing intelligence collection against terrorist organizations in the region generally and in Saudi Arabia specifically are likely to be enduring.

A substantial degree of the intelligence available to the United States on Saudi Arabia comes from the Saudis themselves. However, on politically sensitive topics—such as the level of activity of Saudi dissidents—there is reason to doubt the comprehensiveness of intelligence that is passed to Americans by the Saudis. To American experts, there appears to be no tradition of "pure intelligence"—intelligence free from political influence—in Saudi Arabia. Moreover, the Saudi style of decentralized and diffused bureaucratic power is a complicating factor. It is a common belief among U.S. intelligence and military officials and that information shared by the Saudis is often shaped to serve the ends of competing Saudi bureaucracies—interior and defense ministries, for example—from which it originates.

American intelligence collection efforts regarding terrorist or dissident activities in Saudi Arabia must also obviously compete with other intelligence needs. Given the operational mission of the Air Force in Saudi Arabia, the principal focus of intelligence activity remains the Iraqi threat to U.S. and allied aircraft contributing to Operation Southern Watch. In addition, there have been ample reasons to operate discreetly in the Kingdom and to avoid the risks that would be associated with intelligence activities, particularly human intelligence activities. The Saudis are among our closest allies in the Middle East and the monarchy has been seen as generally stable in a tumultuous region. Developing the kind of human intelligence sources most useful to protecting U.S. forces against terrorist threats would require a long-term and possibly high-risk commitment.

Intelligence analysis

The problems of intelligence collection relative to the terrorist threat against Americans in Saudi Arabia have been accompanied by problems of analysis. While the issue of intelligence analysis requires further investigation, several observations are in order.

Based upon a review of available intelligence information, it is questionable whether the U.S. intelligence community provided theater commanders with sufficient intelligence. At the very least, formal intelligence analyses of the terrorist threat to U.S. forces in Saudi Arabia failed to project an increasing bomb-making capability on the part of terrorist groups. Prior to the Riyadh bombing, there were no incidents involving a bomb of that size (250 pounds) in

Saudi Arabia, therefore the intelligence threat analysis concluded that there was not likely to be such a device. Likewise, while the threat level was raised to a 250-pound car bomb after the Riyadh bombing, it was not raised beyond. It appears that threat assessments were more reactive than predictive. While neither military nor civilian intelligence agencies had voluminous detailed intelligence on which to base their projections, officials interviewed said the expertise required to build a larger truck bomb is not substantially beyond that required to build a smaller car bomb such as was used in the November 1995 Riyadh bombing. While intelligence reports received subsequent to the Riyadh bombing were not conclusive, they should have forced analysts to at least reconsider their analyses, although the extent of the appropriate "hedge" factor is difficult to quantify.

For the U.S. intelligence community and the military, focusing on the Iraqi threat—a tactical necessity and familiar focus—apparently has been coupled with a certain complacency about developments within Saudi Arabia, and perhaps in other Gulf states as well. The result has been to leave commanders in the theater lacking a good understanding of particular terrorist capabilities and threats against U.S. forces. General Anderson said the Kingdom was "considered very benign" with respect to the terrorist threat to U.S. forces in the region, a belief that was open to question even prior to the June 25 bombing. Certainly, events proved General Anderson to be operating under a misapprehension. Saudi Arabia is located in a violent quarter of the world, where anti-American sentiments are strong and where Americans have been frequent targets of terrorism. The Saudi monarchy has made many enemies in the region. Within Saudi Arabia itself, more than 630 people were killed in a series of violent episodes in the city of Mecca between 1979 and 1989. Press reports and scholarly articles about dissidents within the Kingdom have been frequent in recent years.

General Anderson said that he has requested that USCENTCOM assign a counterterrorist intelligence analyst to his staff to fill what he perceived as an unfilled requirement. He said the analyst would have two duties: to give him a better understanding of developments inside Saudi Arabia and to give him a "sanity check" on U.S. intelligence products. The lack of in-house intelligence analysis capability likely contributed to an unquestioning acceptance by the command of formal threat assessments provided by the intelligence community.

Recognizing the limits of intelligence

Intelligence support to U.S. forces conducting Operation Southern Watch did not do an adequate job of understanding and accommodating its own shortcomings. Despite collection and analysis problems, few if any in the intelligence or operational chain of command seem to have adopted a skeptical attitude concerning the limits of intelligence assessments of the potential threat to U.S. military forces in Saudi Arabia. The command could not know what it did not know, there was no recognition of limits.

One area requiring further investigation is how the limitations inherent with available threat intelligence were explicitly recognized and presented to the operational consumers as intelligence products worked their way into the theater. For example, one senior U.S. intelligence official interviewed said he would never have been so specific in quantifying terrorist bomb-building capabilities. Yet security officials at Khobar Towers considered a 250-pound bomb, one roughly the size of the OPM-SANG bombing, to be a fixed threat baseline. Based upon staff interviews, it is evident that intelligence assessments that began as broad ranges of possible terrorist threats evolved and were viewed by those responsible for security at Khobar Towers as firm conclusions.

As a result, officers such as General Schwalier or his security subordinates did not have the appropriate understanding and incentive to hedge against a degree of uncertainty in the projected threat. While neither General Schwalier nor his subordinates asserted that this hedging would have made a decisive difference in the measures taken within the time available prior to the bombing, they did say it might have made a difference in the urgency associated with U.S. discussions with the Saudis regarding security. Acknowledgment of the limited nature of intelligence analysis of the terrorist threat against U.S. forces in Saudi Arabia might well have increased the urgency with which recommendations to push out the Khobar Towers perimeter fence into adjacent civilian areas were pursued with the Saudis, or even the decision to move out U.S. forces of Khobar Towers altogether.

CONTINUITY OF COMMAND IN THE 4404TH FIGHTER WING

Intelligence problems were exacerbated by a number of organizational and operational factors which limited the ability of JTF-SWA and its subordinate commands to respond to new security challenges. While none were sufficient to singularly account for the June 25 bombing, there were pervasive deficiencies that in the aggregate resulted in a serious problem. In the race to respond to the increased threat following the Riyadh bombing, the 4404th Fighter Wing was handicapped by these shortcomings.

Organizational handicaps

The 4404th Fighter Wing (Provisional) is a unit facing constant organizational turbulence. Average tour length is 90 days. According to General Schwalier, the command averages between 200 and 300 new personnel every week, or about 10 percent of its total manpower. To keep up with the turnover, General Schwalier conducts an orientation briefing for incoming personnel each week.

This level of personnel turbulence affects the wing leadership as well as the flight line. Prior to General Schwalier's appointment one year ago, the wing commanders also had short tours. As the thirteenth commander of the 4404th Fighter wing in four years, General Schwalier is the first to serve a one-year tour. This concern was raised by General Schwalier's predecessor in his end-of-tour report. That report was provided to General Schwalier, who requested approval of the extension of tour lengths for nine senior members of the wing staff. Since the June 25 bombing, General Schwalier had recommended that another nine positions be approved for extended tours.

In addition, according to General Schwalier, the structure of command is "a bare bones operation." When the wing was designed at the start of Operation Southern Watch, it was intended only to carry out a temporary mission until Iraq complied with UN resolutions and sanctions were lifted. Four years later, and despite the continuing augmentation of the unit following Operation Vigilant Warrior in 1994, the mission is still formally a temporary one. The result is that the command lacks many of the support staff and other resources typical in a permanent wing structure. The wing's skeletal structure oversees the operation of a wide variety of aircraft, including F-15s, several types of F-16s, A-10s, EF-111s, several types of C-130s, a C21, AWACS planes, KC-10s and KC-135s, U-2 spy aircraft, search and rescue helicopters, and has forward air controllers riding in Army helicopters.

The wing is also widely dispersed geographically. Although the contingent in Dhahran and housed at Khobar Towers is the largest, at a total authorized strength of 2,525, other substantial contingents operate out of Riyadh (1,221), Kuwait (799, in four locations), and other facilities within Saudi Arabia (441, in four locations). General Schwalier admitted that he spent "much time on the road" visiting these "remote sites," attempting to build teamwork among elements of the command and provide the requisite command supervision.

The necessity for unit cohesion is important for a variety of reasons. Beyond the constant rotations and dispersed basing, the conduct of no-fly zone missions is an ongoing problem for the Air Force as well as the other services. The missions, despite the fact that they are conducted in "harm's way," are widely considered by those who fly them to be deleterious to pilot training and skills, and a monotonous routine. No-fly zone duty also is a personal hardship requiring frequent family separations, not merely for pilots but for maintenance and other personnel. Yet many in the wing had served a number of rotations on no-fly-zone duty and the resulting need to retrain for basic combat missions imposed a six- to nine-month burden on pilots and units.

The impact of short tours

The overall result of short tours, a widely dispersed command, and personnel turbulence is a command that lacks much if any continuity or cohesion. While the professionalism of individual members of the commend was apparent, the lack of continuity among senior leaders was widely recognized by those interviewed as a shortcoming. General Schwalier remarked that it was a "consuming" leadership challenge—a viewpoint that was echoed at every echelon of the command.

General Schwalier identified three primary problems that stemmed from the lack of continuity. The first was an inability to build a better relationship with the Saudis. According to General Schwalier, "You can't build that in two weeks." For example, a common assessment within the wing leadership is that, although security assistance on the part of the Saudis had been improving prior to the June 25 bombing, accomplishing more difficult tasks such as expanding the Khobar Towers security perimeter would take months. The estimate of Colonel James Ward, commander of the Army-run logistics operation designed to accommodate any surge of forces into the theater, was that such a project would require four to six months. Thus, when the initial negotiations about such measures ran into Saudi resistance, General Schwalier's assessment was that these were "still a possibility" that he might be able to "get to," but improving security within the compound was a more immediate concern.

A second problem was the difficulty of building organizational and command stability within the wing. In particular, implementing the recommendations of the periodic, six-month vulnerability assessments conducted for the wing appear to have fallen victim to this sort of organizational and command instability. For example, the vulnerability assessment returned from OSI to

the wing in September 1995 had been completed the preceding July. Thus, "by the time the assessment appeared, the people (who had requested it) were gone," said General Schwalier. When he discovered the three-month lag, General Schwalier demanded that future vulnerability assessments be completed and returned to the command in a more timely fashion.

Colonel Boyle, the departing wing Support Group commander who had overall responsibility for security measures, said one of his biggest challenges was training his organization to the specific requirements of the mission before personnel rotated to other assignments. "You never got beyond the elementary" level, he said. For example, guards manning observation posts or other positions often worked only in single locations or a small number of locations. Short tours and the demands of the mission prevented them from acquiring a broader understanding of the security operation or even manning a substantial variety of posts.

The third problem stemmed from the other effects of working within a 90-day rotation cycle. While the basic building blocks of the wing—the fighter and other squadrons that conducted the flying missions—might be kept relatively intact, arriving and departing as a whole, higher echelon, wing-level support activities were primarily conducted by ad hoc organizations, with personnel arriving and departing individually. Even senior leaders often would have no more than 24 to 36 hours of overlap with their predecessors.

Difficulties of developing institutional knowledge on security matters

The lack of unit and leadership continuity made building and retaining institutional knowledge difficult. After-action reports or other similar documents were not immediately available to all incoming commanders; apparently were not centrally collected, controlled, or disseminated by the wing, the Air Force, or USCENTCOM; and may not even have been required. Available reports did not routinely include "status-action" assessments high-lighting problems to be addressed. Nor typically were there pre-rotation familiarization tours for incoming commanders, staff or senior enlisted personnel within the wing. These particular concerns were focused on the support functions of the wing.

The experience of Lieutenant Colonel Traister, the commander of the wing's security squadron at the time of the bombing, is indicative of the challenges senior leaders faced as a result of the lack of continuity. By all accounts, including those of his subordinates, Lieutenant Colonel Traister has been a superb commander, but he was confronted with many problems resulting from organizational instability.

Lieutenant Colonel Traister benefited from the fact that his previous position was as part of the CENTAF staff. By virtue of this position, he was able to determine who had been his predecessors as commanders of the 4404th security squadron, read their after-action reports (although he said the records were incomplete and did not contain "status-action" recommendations), and contact a number of them for personal interviews and recommendations. He also was able to determine who would be filling important positions that could affect his own work, such as who his OSI counterpart would be. By contacting his counterpart, Lieutenant Colonel Traister was able to establish the beginning of what he saw as an essential relationship between the two and the building of teamwork with the special investigator with whom he would work closely. However, prior to his arrival at Khobar Towers, he could get access to only the July 1995 vulnerability assessment, not the 1996 assessment done after the Riyadh bombing. Yet even that, he said, was a step that his predecessors typically had been unable to accomplish and was made possible because of his previous assignment responsibilities which permitted his access to the reports and appropriate personnel.

Accordingly, when he arrived at Khobar Towers and received from General Schwalier his security mission, Lieutenant Colonel Traister enjoyed advantages his predecessors has not and was more rapidly able to take measures to improve security. He said that he spent between two and three weeks evaluating the compound and the resources he had at his disposal, a process that he said "takes three to six months" under normal circumstances. At the same time, he recognized a human intelligence shortfall, and that he required "an analyzed (intelligence) product" that the skeletal wing staff, the JTF-SWA staff, or even USCENTCOM would not be able to give him. He also came to understand that the shortage of Arab linguists in the wing—the entire 4404th has just one—would be a continuing problem for the security squadron. Lieutenant Colonel Traister said that when he was stationed in Japan, where the threat level was lower, the security squadron had retained a linguist of its own and made arrangements to acquire others in times of crisis.

Institutional shortcomings

General Schwalier also faced a number of institutional shortcomings that affected the ability of the command to accomplish longer-term tasks. Although many of these have no direct bearing on security issues, several do. For example, the 4404th operated without an established mid- or long-term budgeting mechanism as is found in other wings. After three or four months in command, General Schwalier began to focus on the need to prepare a five-year budget plan. Despite the fact that the wing had been operating on a temporary mission basis since 1992, this was the first long-term budget plan for the wing. Its expenses had previously been paid out of contingency funds, which were accounted for in yearly, ad hoc procedures with funds reprogrammed from other Department of Defense programs. Under General Schwalier's plan, the first year's budget, covering all aspects of the wing's operations, totaled $27 million, with $3 million for construction. Though these construction funds allowed for some repair of the Khobar Towers facility, which had generally been neglected and was in need of repair, about one-third was intended for security improvements. The largest item was $700,000 for "black-out" curtains for every apartment and office. Lower in priority were funds for Mylar covering for the Khobar Towers windows to reduce the possibilities for fragmented glass in the event the windows were shattered. As General Schwalier's plan has not yet made its way through the annual Air Force budgeting program, it is unclear what the likelihood was that these recommended improvements—long-term investments for what then was considered a "temporary" mission—would have been realized.

A number of institutional problems at higher echelons of command also bear upon questions of security. The focus of operations and intelligence at JTF-SWA was primarily on conducting the Southern Watch no-fly-zone mission. According to Major General Anderson, the Joint Task Force commander, his intelligence staff was a relatively small, 65-person operation whose focus was on the Iraqi order of battle relevant to each day's air tasking order. General Anderson currently has one officer assigned to force protection issues, but estimates that he needs at least seven or eight personnel to deal with force protection issues, given the current threat level. He also said he lacks adequate intelligence analysis capability for the purposes of providing a "sanity check" on intelligence assessments provided by theater and national intelligence organizations, and an analyst is among the personnel he has requested. The need for this analytical capability, or at least access to it, was also expressed by others in the theater.

Also, General Anderson has been given the mission of "force protection czar" for the JTF-SWA area of operations, though his authority is only for the purposes of coordination rather than command, which is retained at USCENTCOM. General Anderson did not receive this force protection coordination authority until April 12, nearly six months after the Riyadh bombing. According to Army Colonel Ward, for some time "no one (in Saudi Arabia) was in charge of force protection after (the) OPM-SANG (bombing)." And several elements of General Anderson's authority as force protection czar took lower echelons by surprise in that USCENTCOM changed or contradicted recommendations worked out previously.

Contrasting service approaches to command continuity

It is unclear precisely what the proper tour lengths or level of organizational or financial commitment to the mission of the 4404th Fighter Wing should be, but it is clear that the nature of the mission resulted in some organizational requirements going unmet. While matching military forces to missions is more an art than a science, comparing the Air Force's execution of its mission in Saudi Arabia with that of other services provides a useful benchmark. For example, the Army units under Colonel Ward's command have a much higher percentage of long-service positions; roughly 10 percent of the 900 soldiers under his command serve at least a one year tour. When senior commanders and their staff rotate to the theater, they typically undertake two extended familiarization tours, with the first of these tours coming several months prior to deployment. While many of these positions are associated with the longer-term logistics effort for which there is no exact Air Force parallel, others, particularly the Patriot missile units, are more analogous to the no-fly zone mission. The Patriot units—which are deployed with a higher-than-normal manpower level—serve a 120-day tour, and the senior leaders and staff all have at least one substantial familiarization tour prior to deployment. Also, each unit has ready access to the after-action reports of predecessor units. In part because of its logistics mission, the Army has had a traditional long-term budget process in place for its units serving in Saudi Arabia for some time; Colonel Ward's next budget includes $7 million for military construction including a "couple of million" for security. Finally, his staff includes two interpreters and his organization includes a counter-intelligence team with an Arab linguist.

While the reasons for shorter tours have a degree of validity in terms of lessening the strains of repeated no-fly-zone tours, family separations, and loss of warfighting skills, at a minimum senior positions within the wing demand a greater degree of continuity than

has been the case in past. The fact that General Schwalier was the lone long-term member of the wing—and that, in four years of operation, he was the first commander to serve more than a very short tour—is indicative of the reluctance and unwillingness of political and military leaders to admit that the mission was more than temporary and to bestow upon it the full complement of resources, manpower, and capabilities.

The "contingency" nature of Operation Southern Watch

Confronting the fact that Operation Southern Watch is in fact a long-term commitment and not a temporary contingency missions poses a domestic political problem for the Saudis and Americans, and an institutional problem for the Air Force. The Saudis must face the fact that a continued U.S. military presence will be necessary to maintain stability in the region—an admission that raises sensitive domestic political concerns for the Saudi ruling family. The United States must similarly understand the nature of its commitment and aggressively confront the risks such a mission entails, including the continuing threat of terrorism. For the U.S. Air Force, such an admission would call into question the policy of constant personnel rotation, at least at the wing leadership level.

Any belief that Iraq would quickly comply with the UN provisions that resulted in the Southern Watch mission has been misplaced, certainly since late 1994 when Iraqi forces moved south to threaten Kuwait and the United States responded with Operation Vigilant Warrior. And given the statements by U.S. policymakers in the wake of the Riyadh and Khobar Towers bombings about American determination to maintain forces in Saudi Arabia, the U.S. military presence in the Kingdom stands revealed for what it has always been: a long-term commitment to security and stability in the Gulf. The Saudis have also, in effect, made such an admission by agreeing to bear many of the costs of relocating the 4404th to Al Kharj, an airbase in a more remote location.

While the lack of leadership and organizational continuity within the 4404th has had wide-ranging effects, it also played a substantial role in problems confronting the wing's security personnel in its efforts to react to terrorist threats. Neither the wing or JTF-SWA level possessed the intelligence analysis capability to evaluate what proved to be seriously limited intelligence. There were no budgetary procedures or processes for making long-term investments in the Khobar Towers complex, even for security reasons. Only through the efforts of General Schwalier and his senior staff were improved security measures within the compound achieved following the November 1995 Riyadh bombing. Achieving greater security would have required expanding the perimeters of the Khobar Tower complex or, as is now planned, a move out of the facility altogether. These are measures whose quick consideration and implementation transcend the day-to-day influence of the 4404th or JTF-SWA, as the direct involvement of the office of the Secretary of Defense in the recent negotiations indicates.

IMMEDIATE POST-BOMBING REACTION

In the immediate aftermath of the June 25 bombing, the medical and other support systems and personnel of the 440th Fighter Wing appear to have reacted with a high degree of professionalism. Commanders and troops alike recounted stories of individual heroism. Major Steven Goff, a flight surgeon who was badly wounded in the attack, worked methodically in the compound's clinic to treat more than 200 of his compatriots who were seriously injured. Prior to receiving formal medical treatment, many of the wounded were initially treated by the "buddy care" system, which also appears to have worked as planned and insured that no one was left alone. After the bombing, according to those interviewed, guards rapidly but methodically went into every building and checked out every room to ensure that no one was trapped or unaccounted for.

The medical system also appears to have performed well, and was blessed with abundant resources. At the clinic, three Air Force physicians were assisted by an Army doctor and additional personnel from coalition forces, including the Saudis. Emergency supplies of blood and other necessary materials were sufficient to treat more than 250 people. Everyone who was brought to the clinic for medical treatment, regardless of the severity of their injuries, lived; the only fatalities on the evening of June 25 were 16 airmen in Building 131 who likely died instantly from the initial explosion, a communications specialist in Building 133 who was killed when the glass door to his balcony shattered from the force of the blast, and two other fatalities in Building 131 who might have survived had they been nearer to the medical facility.

Since the bombing security at the Khobar Towers complex has been increased significantly. An additional 44 security personnel have deployed to Khobar Towers, and 44 more were requested by Lieutenant Colonel Traister and are expected to be deployed in the near future. The perimeter has been extended beyond the public parking lot on the north end of the compound, an additional 1,000 barriers have been erected, and the number of observation posts has been increased. Saudi security patrols have been increased outside the perimeter and agreement with the Saudis to move to a more secure and remote site has been reached. According to statements by Defense Secretary Perry, the relocation will be conducted as quickly as possible.

OBSERVATIONS

The unpreparedness of U.S. forces stationed in Saudi Arabia for the magnitude of the terrorist bomb in Dhahran raises significant questions about the adequacy of intelligence support. While intelligence information was provided, it was not of either the quality nor the quantity necessary to alert commanders to the magnitude of the terrorist threat they faced. The lack of on-the-ground intelligence collection and analysis capabilities deserves priority attention and argues for a greater commitment of resources.

Greater counter-terrorism intelligence analysis effort is needed by U.S. forces stationed in Saudi Arabia. The intelligence staff working for the JTF-SWA commander is small, focused on the Operation Southern Watch mission and lacks adequate resources to function as an independent "sanity check" on the quality of intelligence received from USCENTCOM or national intelligence agencies. The JTF commander requires this analysis capability to function in his capacity as the local "force protection czar." Likewise, tactical fighter wings and other significant elements of the JTF should have the capability for timely access to this independent, in-theater analysis.

The uncertainties inherent in intelligence efforts against terrorist groups and in friendly but closed societies such as in Saudi Arabia needs to be adequately conveyed to military commanders so they can assess intelligence information in the proper context and retain an ability for independent judgments about the threat they face. Commanders need to better understand the limits of intelligence they receive and be cognizant of a range of threats rather than fixate on a "baseline" or overly specific threat assessment.

Three-month troop rotations place unnecessary and counterproductive strains on unit leaders and staffs. It is difficult to establish leadership and unit continuity in contingency operations, let alone to address issues where it is essential to build relationships of trust with host nations. Newly-deployed commanders, security chiefs, and other force protection specialists should not have to relearn the same lessons learned by their predecessors and work to establish the same kinds of productive relationships with their Saudi counterparts. While short tours may make sense for those on the flight line, senior leaders, staff and key personnel should be deployed for sufficient period to develop the expertise and experience necessary to ensure the safety of their commands.

Short rotations reflected the pretense of a "temporary" mission. Despite the fact that Operation Southern Watch had been ongoing since 1992 and the probability of Iraqi compliance with UN resolutions was low, Saudi and American leaders and the U.S. Air Force planned and operated based on the presumption that Operation Southern Watch was only a temporary mission. An appropriate and earlier recognition by the civilian and military leadership (a recognition certainly warranted by Operation Vigilant Warrier in 1994) that the mission, for all practical purposes, was a "permanent" one might have resulted in a higher degree of leadership and unit continuity and minimized a number of organizational and operational shortcomings. The Department of Defense needs to review other ongoing operations to ensure that U.S. force protection needs and U.S. security interests are not being compromised by the limitations inherent in running quasi-permanent operations under the politically-acceptable rubric of "temporary" contingencies.

APPENDIX A

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, July 5, 1996.

Hon. WILLIAM J. PERRY,
Secretary of Defense,
Washington, DC.

DEAR MR. SECRETARY: Media reports concerning the bombing of the al-Khobar Towers in Dhahran, Saudi Arabia, purport to disclose very detailed information pertinent to the ongoing criminal investigation. Some of the reports appear to be based on either public statements or leaks by U.S. Government employees.

The investigation of a terrorist act directed at the United States overseas is, by its nature, very difficult to conduct. Public disclosures of details pertinent to the investigation compound the difficulty and may compromise the prospects for the eventual success of the investigative effort. In the event of a U.S. prosecution, such disclosures present significant litigation problems.

While the public interest in this investigation is understandable, it is imperative that all federal employees refrain from unauthorized public disclosures of information pertinent to the investigation. Disclosures concerning the events leading up to the bombing—including any prior warnings or surveillance of the U.S. facility—as well as the details of the bombing and the results of the

investigation should be limited to those made through authorized agency channels. Authorized disclosures should be coordinated with this Department prior to their release by contacting the Department's Terrorism and Violent Crime Section at 202-514-0849.

The al-Khobar bombing investigation involves the dedicated and professional efforts of a large number of federal personnel. It is imperative that the professionalism of this effort not be compromised by unauthorized disclosures.

Sincerely,

JANET RENO.

APPENDIX B

LIST OF INDIVIDUALS INTERVIEWED BY THE DELEGATION

Major General Kurt B. Anderson, JTF/SWA/CC; Brigidier General Terryl J. Schwalier, 4404WG(P)/CC; Brigidier General Daniel M. Dick, BG Schwalier's Replacement; Colonel James R. Ward, ARCENT; Colonel Gary S. Boyle, 4404 Spt Gp/CC; Lieutenant Colonel James J. Traister, 4404 SPS/CC; Chief Master Sargeant Jimmy D. Allen, 4404 SPS/CCE; Richard M. Reddecliff, Office of Special Investigations; Staff Sargeant Alfredo R. Guerrero, Security Patrol; Senior Airman Corey P. Grice, Security Patrol; Airman First Class Christopher T. Wagar, Security Patrol; Staff Sargeant Douglas W. Tucker, Security Patrol; Lieutenant Colonel John E. Watkins, F-16 pilot; Major James D. Hedges, F-16 pilot; Captain Steven E. Clapp, F-16 pilot; Captain John P. Montgomery, F-16 pilot; Major Steven P. Goff, Flight Surgeon.

APPENDIX C

EXPLANATION OF TERRORIST THREAT CONDITIONS

THREATCON NORMAL—Applies when a general threat of possible terrorist activity exists, but warrants only a routine security posture.

THREATCON ALPHA—Applies when there is a general threat of possible terrorist activity against personnel and facilities, the nature and extent of which are unpredictable, and circumstances do not justify full implementation of THREATCON BRAVO measures. However, it may be necessary to implement certain measures from higher THREATCONs resulting from intelligence received or as a deterrent. The measures in this THREATCON must be capable of being maintained indefinitely.

THREATCON BRAVO—Applies when an increased and more predictable threat of terrorist activity exists. The measure in this THREATCON must be capable of being maintained for weeks without causing undue hardship, affecting operational capability, or aggravating relations with local authorities.

THREATCON CHARLIE—Applies when an incident occurs or intelligence is received indicating some form of terrorist action against personnel and facilities is imminent. Implementation of this measure for more than a short period probably creates hardship and affects the peacetime activities of the unit and its personnel.

THREATCON DELTA—Implementation applies in the immediate area where a terrorist attack has occurred or when intelligence has been received that terrorist action against a specific location or person is likely.

Source: Air Force Instruction 31-210, 1 July 1995.

Mr. Speaker, I ask unanimous consent that the gentleman from Florida [Mr. SCARBOROUGH] be permitted to control the remaining time on our side.

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

There was no objection.

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

Mr. Speaker, I thank the chairman for his leadership on the committee, the ranking member for his leadership on the committee, and obviously the families of these brave young men that died over in Saudi Arabia, as well as those in the Eglin community in northwest Florida who saw 11 of the 19 of their bravest men not come back.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I thank the gentleman for yielding time to me. I would commend the gentleman for the leadership role he has brought to bear in bringing this measure to the floor today, because I think it is of very notable importance.

Mr. Speaker, let me say it is entirely appropriate that we should make note of the event that occurred in Dhahran in June of this year. It is, obviously, our intent to speak today to the families of the people who were involved in that very disastrous event, so it is appropriate and fitting that we make these remarks on behalf of the people who were involved and who died on that date.

I think it is also appropriate, Mr. Speaker, that we note that while we remember an event that occurred, and remember the families that were affected by it, it is also important for us to look ahead. It is important for us to understand this event in the context of the future, and what it could mean to servicemen and servicewomen, their families, and other civilians who travel outside the United States, and in some events that could even occur here at home.

Mr. Speaker, those who have the objective of disrupting the American presence around the world have found what many of us believe is a new way to accomplish that. In the past, when people wanted to use force to bring about change of one kind in one part of the world or another, they would use what we refer to today as conventional force.

Since World War II, or the middle of World War II, the United States has been the predominant nation or the predominant force in terms of conventional power and our success at conventional warfare. I think the many nations around the world have understood that today. They have understood that they need to find another way to bring about the changes that they seek. That was learned, I think, in the Middle East by a number of Middle Eastern nations during the history of the State of Israel, during the last 50 years or so, when war after war was won by the Israelis.

□ 1530

Other people who wanted to disrupt Israeli society and perhaps drive Israel out of existence used a form of warfare today known as international terrorism. That international terrorism, of course, still goes on in the Middle East, and this event which occurred in June is evidence of that.

In 1991, we decided that we did not like an event that was occurring or about to occur in the Middle East. It happened to be the invasion by Saddam Hussein of our friendly associate, Kuwait. And so once again we demonstrated our capability to carry out a conventional act which educated in some respects some countries in the Middle East as to our ability to carry out a conventional defense of that country.

It is notable that since 1991, the acts of terror against American personnel, both military and civilian, overseas has increased. In 1995, there was a bombing in Riyadh where five American servicepeople lost their lives, and, of course, this bombing in Dharan is further evidence of the increase of terror against the United States, against Westerners, and against people who are considered to be, by them, unfriendly to certain countries in the Middle East. And so it is important for us to note several things about these events.

First, we have to note what they are not, or what we believe they are not. They are not just random acts acting out against the West. They are well planned, the perpetrators are well trained, they are well financed, and in some cases, in many cases perhaps—perhaps in most cases—we believe today they are sponsored by certain states in the Middle East.

Countries on the suspect list, of course, are Iran, Sudan, Syria, perhaps in some cases Iraq, some forces out of Turkey, not the Turkish Government necessarily but some forces in Turkey, some forces in Saudi Arabia, some forces in Egypt, and perhaps other countries, Libya in North Africa.

These are well-planned, well-carried-out events which are intended to accomplish a purpose. Usually that purpose is to drive out or disrupt the American presence in certain quarters of the world. I think it is important to understand these things in the context of the Dhahran bombing and for us to take note as an institution as to what it is the Americans face overseas.

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

I thank the gentleman from New Jersey for his statement on terrorism and helping explain to us a little bit more of why what happened, happened.

My resolution today that I have placed before the House is meant to honor heroes that were obviously victims of this terror. If is a modest gesture to salute the 19 men who in life

and who in death made their country proud and, in doing so, gave their country an example of service, dedication, and nobility for which all Americans should strive and which we should not forget.

It was only a matter of months ago, on June 25, that an act of terrorism was perpetrated against the men and women of our armed services in Saudi Arabia. Those men and women had been called by their country to a duty in a faraway place to help defend freedom in a land that has known very little of it.

It was not an easy task to take on. The place our men and women in uniform were defending is in many respects a forbidding place, a place of strange customs, of harsh climate, and sometimes unfriendly and unwelcoming people. Obviously, it was far removed from family, friends, and home that all of them knew.

Yet like the professionals that they are, they did their jobs, and in doing so, they were making sure that we all could enjoy the blessings of liberty. Then in one split second, the 19 brave young men were killed.

Among them were A1c Joshua Woody, who was known to his buddies simply as Woody and was the guy that everybody came to with their problems.

Then there was Capt. Christopher Adams. Captain Adams had barely escaped another fatal terrorist attack 3 years earlier and had told a relative of his that he was very fearful of being deployed in Saudi Arabia. Yet he never hesitated to go when duty called.

Mr. Speaker, Captain Adams was due to be married on October 19. His last words to his uncle, who is a minister, were, "When I come back from Saudi, I'll be sure to give you a call." Sadly, instead of officiating at Mr. Adams' wedding, his uncle presided over his funeral.

Then there was Joseph Rimkus, a brave young man whose aunt is with us today who has been fighting for the memory not only of her nephew but for the other 18 young men who were killed over in Saudi Arabia.

These 3 young men and the 16 others who died with them were in many respects ordinary men. However, these men were doing extraordinary things. They even in death give us a great example of courage, duty, honor, and nobility.

Mr. Speaker, I still remember vividly the television scenes of the military compound, of wounded men and women being removed from the wreckage, and later still I attended memorial services held at Eglin Air Force Base in my district, a base where 11 of these 19 young men came from. I remember the grieving widows and children.

I remember the terrible feeling I felt in the pit of my stomach when the wife of one of these men who died came up to me and said, "Please don't let my husband be forgotten." As she handed me a small picture, she said, "Please don't let my husband be forgotten."

As I have stated earlier, I know this is a modest gesture, I know this does not bring those 19 young men back, but it is all we can do today.

I also remember the young 10-year-old boy that had gone down to Panama City to live with his father. And when his father was deployed and did not come back, I remember going up to him that morning in the memorial service and talking to him. And he was talking about things that my 8-year-old boy talks about, the Atlanta Braves, about baseball, about what school was going to be like in the fall, and it had not really hit him at that time that his father was gone and that his father was not coming back and would not be able to go with him to a ball game, would not be able to share with him in a school play this year, would not be able to see him grow up, go to college, and do all the things that I pray to God that I will be able to do.

It was at that moment when I saw him break down at the memorial service that it hit me, I guess more than it has ever hit me before, exactly what type of sacrifice these men gave in Saudi Arabia when they gave their life. It is a terrible price that they had to pay, but it is a price that they were willing to pay.

It has been said that America is the last best hope of man on earth. Ronald Reagan talked about that shining city on a hill. But we see in the bombing both a blessing and the responsibility that such a role entails.

American men and women are serving in the uniform of their country, risking their lives in dangerous places all around the world to see to it that this hope, that this shining city on the hill, never dies. It is, quite literally, a sacred duty and a duty that, at the very least, is worthy of our recognition and our honor.

Mr. Speaker, that is what I wanted to do today in a small way with this resolution. To paraphrase Abraham Lincoln, the brave men who died in Saudi Arabia have consecrated that place far above our poor power to add or to detract. However, if we remember and honor their memories, I believe that we will be able to carry on in some small way the work for which they sacrificed their lives.

And may those who carry on take comfort in the thought that their 19 comrades are now safe in the arms of a loving God and that we have done what I promised that wife we would do, that we have remembered her husband and the other 18 who died tragically on June 25.

Mr. Speaker, in memory of those who have died and also those that go on serving in carrying out the duties of freedom, I ask that my colleagues support this resolution.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, I rise with my full heart in this resolution.

I had been over there to visit with these young men from this great 33d Fighter Wing down in northern Florida. One of their squadrons, the 58th, had accounted for more aerial victories in Desert Storm than any other. They had gotten all the early victories. Because the 1st Fighter Wing out of Virginia was to guard the oil fields, they went deep into Iraq and never lost an aircraft.

The corporate memory problem is what I wanted to address today. I can remember exactly where I was in Phoenix, AZ, when the bomb destroyed our barracks in Beirut; 220 marines, 17 Army, and 4 Navy died in a flash, and we always forget about those that are blinded or lose fingers or an arm or a leg. The wounded toll was terrible.

But before that, in April 1983, a car bomb had gone off in front of the American Embassy in Beirut, almost the exact number killed as this 19-death tragedy at the Khobar Barracks. Eighteen killed. And then months later it happened again. I was in Jean Kirkpatrick's office at the United Nations when that bomb went off and tore the whole facade off our Embassy in Beirut and killed two marines who were up front, in their position, guarding the security of the Embassy and who comes in the front door, who is barred entrance.

The bombings in London. I have a photograph back in the Cloakroom. I would have brought it out, but it would just look brown to the gallery or to the C-SPAN audience. It is of a car bomb set off in the financial district of London. And that only one human being died is a miracle when you look at this photograph: Skyscrapers and buildings going back 100, 200 years; roofs torn off; every single window for a quarter of a mile on both sides of the street wiped out.

We know about these car bombs. Is it the bureaucracy in the House that has no corporate memory? In the Senate? About 30 percent of us were here when the 1983 bombings took place in Beirut killing so many Americans and so many servicemen.

In the military, though, general officers were around during these bombings. They do not have this rollover problem and this loss of institutional memory.

I do not want to see people pay the price of having their careers destroyed, some of them with combat missions in Southeast Asia or in the gulf region of the Middle East, but we simply cannot forget the past. The past is prolog to the future. Study the past, and implement the security needed.

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

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

Mr. Speaker, I have tried to listen diligently to all of the remarks of my distinguished colleagues as they have marched into the well to address themselves to House Concurrent Resolution 200.

First with respect to the general issue of terrorism, yes, Mr. Speaker, it is here, it is real, it is alive, it is expanding, it is evolving, and it will be a threat that America and the world will have to deal with on an increasing basis as we move into the 21st century. That is a matter that we must come to grips with and address in significant terms. It will require the highest and the best in us. It will require our best thinking, our best judgment and our best thoughts.

□ 1545

That is not the moment that we are in at this point. There will also be recriminations about who did what and who was responsible. That also is an integral part of the process. But that is not why we are here today.

We are here today for a very simple, thoughtful, and compassionate reason; not to politicize, not to demagogue, not to point fingers, but simply to pause as human beings and to attempt to put our emotional arms around people who have experienced great tragedy. First, 19 human beings who paid the ultimate and supreme price of dying in a terrorist tragedy, Khobar Towers in Saudi Arabia.

Something we have not focused upon is the 200 people, many of whom severely and significantly were injured, who also paid a very heavy price. The families that my distinguished colleague from Florida spoke about, the young child speaking in those kinds of real and powerful human terms, bring the reality of the risk of serving abroad in dangerous places as we carry out the foreign policy and national security policy of this country. It comes to us all too real.

But I just want to rise, along with the distinguished gentleman from Florida, the author of this concurrent resolution, and join with all of my colleagues on the Committee on National Security, for we passed this resolution unanimously, in acknowledging the personal sacrifices the 19 American military personnel to which I alluded earlier gave, killed, and the more than 200 wounded, on June 25 of this year.

I know that I join with the rest of the country when I say to their families and fellow service members that they can be assured that this Nation will long remember their bravery and sacrifices that they have made for their country.

So I am simply saying, Mr. Speaker, all of the other comments notwithstanding what this resolution is about, is to ask this body to pause for a moment, to embrace human life in a compassionate way, to embrace the families of this country that have grieved and paid an incredible price; people dying, and mothers and fathers crying, and children not quite understanding what is going on.

So I urge all of my colleagues to come to the floor at the appropriate point in these proceedings, to join with the gentleman from the State of Florida, this gentleman, and all of my colleagues on the House Committee on National Security, and unanimously pass this resolution as some modest way of saying to people we feel, we understand, we care, and we pay tribute.

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

Mr. SCARBOROUGH. Mr. Speaker, I thank the distinguished gentleman from California for his kind words.

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

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from South Carolina [Mr. SPENCE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 200, as amended.

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

The title of the concurrent resolution was amended so as to read: "Concurrent resolution honoring the victims of the June 25, 1996, terrorist bombing in Dhahran, Saudi Arabia."

A motion to reconsider was laid on the table.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 3666, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider a conference report to accompany the bill, H.R. 3666, that all points of order against the conference report and against its consideration be waived, and that the conference report be considered as read when called up. This request has been cleared with the minority.

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

There was no objection.

ANIMAL DRUG AVAILABILITY ACT OF 1996

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2508) to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2508

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

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Animal Drug Availability Act of 1996".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. EVIDENCE OF EFFECTIVENESS.

(a) ORIGINAL APPLICATIONS.—Paragraph (3) of section 512(d) (21 U.S.C. 360b(d)) is amended to read as follows:

"(3) As used in this section, the term 'substantial evidence' means evidence consisting of one or more adequate and well controlled investigations, such as—

"(A) a study in a target species;

"(B) a study in laboratory animals;

"(C) any field investigation that may be required under this section and that meets the requirements of subsection (b)(3) if a presubmission conference is requested by the applicant;

"(D) a bioequivalence study; or

"(E) an in vitro study;

by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and reasonably be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.".

(b) CONFORMING AMENDMENTS.—

(1) Clauses (ii) and (iii) of section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)) are each amended—

(A) by striking "reports of new clinical or field investigations (other than bioequivalence or residue studies) and," and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or,"; and

(B) by striking "essential to" and inserting "required for".

(2) Section 512(c)(2)(F)(v) (21 U.S.C. 360b(c)(2)(F)(v)) is amended—

(A) by striking "subparagraph (B)(iv)" each place it appears and inserting "clause (iv)";

(B) by striking "reports of clinical or field investigations" and inserting "substantial evidence of the effectiveness of the drug involved, any studies of animal safety,"; and

(C) by striking "essential to" and inserting "required for".

(c) COMBINATION DRUGS.—Section 512(d) (21 U.S.C. 360b(d)), as amended by subsection (a) is amended by adding at the end the following:

"(4) In a case in which an animal drug contains more than one active ingredient, or the labeling of the drug prescribes, recommends, or suggests use of the drug in combination with one or more other animal drugs, and the active ingredients or drugs intended for use in the combination have previously been separately approved for particular uses and conditions of use for which they are intended for use in the combination—

"(A) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on human food safety grounds unless the Secretary finds that the application fails to establish that—

"(i) none of the active ingredients or drugs intended for use in the combination, respectively, at the longest withdrawal time of any of the active ingredients or drugs in the combination, respectively, exceeds its established tolerance; or

"(ii) none of the active ingredients or drugs in the combination interferes with the methods of analysis for another of the active ingredients or drugs in the combination, respectively;

"(B) the Secretary shall not issue an order under paragraph (1)(A), (1)(B), or (1)(D) refusing to approve the application for such combination on target animal safety grounds unless the Secretary finds that—

"(i)(I) there is a substantiated scientific issue, specific to one or more of the active ingredients or animal drugs in the combination, that cannot adequately be evaluated based on information contained in the application for the combination (including any investigations, studies, or tests for which the applicant has a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted); or

"(II) there is a scientific issue raised by target animal observations contained in studies submitted to the Secretary as part of the application; and

"(ii) based on the Secretary's evaluation of the information contained in the application with respect to the issues identified in clauses (i)(I) and (II), paragraph (1)(A), (B), or (D) apply;

"(C) except in the case of a combination that contains a nontopical antibacterial ingredient or animal drug, the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use other than in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to labeled effectiveness;

"(ii) each active ingredient or animal drug intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population; or

"(iii) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs may be physically incompatible or have disparate dosing regimens, such active ingredients or animal drugs are physically compatible or do not have disparate dosing regimens; and

"(D) the Secretary shall not issue an order under paragraph (1)(E) refusing to approve an application for a combination animal drug intended for use in animal feed or drinking water unless the Secretary finds that the application fails to demonstrate that—

"(i) there is substantial evidence that any active ingredient or animal drug intended only for the same use as another active ingredient or animal drug in the combination makes a contribution to the labeled effectiveness;

"(ii) each of the active ingredients or animal drugs intended for at least one use that is different from all other active ingredients or animal drugs used in the combination provides appropriate concurrent use for the intended target population;

"(iii) where a combination contains more than one nontopical antibacterial ingredient or animal drug, there is substantial evidence that each of the nontopical antibacterial ingredients or animal drugs makes a contribution to the labeled effectiveness; or

"(iv) where based on scientific information the Secretary has reason to believe the active ingredients or animal drugs intended for use in drinking water may be physically incompatible, such active ingredients or animal drugs intended for use in drinking water are physically compatible.".

(d) PRESUBMISSION CONFERENCE.—Section 512(b) (21 U.S.C. 360b(b)) is amended by adding at the end the following:

"(3) Any person intending to file an application under paragraph (1) or a request for an investigational exemption under subsection (j) shall be entitled to one or more conferences prior to such submission to reach an agreement acceptable to the Secretary establishing a submission or an investigational requirement, which may include a requirement for a field investigation. A decision establishing a submission or an investigational requirement shall bind the Secretary and the applicant or requestor unless (A) the Secretary and the applicant or requestor mutually agree to modify the requirement, or (B) the Secretary by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the animal drug involved has appeared after the conference. No later than 25 calendar days after each such conference, the Secretary shall provide a written order setting forth a scientific justification specific to the animal drug and intended uses under consideration if the agreement referred to in the first sentence requires more than one field investigation as being essential to provide substantial evidence of effectiveness for the intended uses of the drug. Nothing in this paragraph shall be construed as compelling the Secretary to require a field investigation.".

(e) IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations implementing the amendments made by this Act as described in paragraph (2)(A) of this subsection, and not later than 18 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments. Not later than 12 months after the date of enactment of this Act, the Secretary shall issue proposed regulations implementing the other amendments made by this Act as described in paragraphs (2)(B) and (2)(C) of this subsection, and not later than 24 months after the date of enactment of this Act, the Secretary shall issue final regulations implementing such amendments.

(2) CONTENTS.—In issuing regulations implementing the amendments made by this Act, and in taking an action to review an application for approval of a new animal drug under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), or a request for an investigational exemption for a new animal drug under subsection (j) of such section, that is pending or has been submitted prior to the effective date of the regulations, the Secretary shall—

(A) further define the term "adequate and well controlled", as used in subsection (d)(3) of section 512 of such Act, to require that field investigations be designed and conducted in a scientifically sound manner, taking into account practical conditions in the field and differences between field conditions and laboratory conditions;

(B) further define the term "substantial evidence", as defined in subsection (d)(3) of such section, in a manner that encourages the submission of applications and supplemental applications; and

(C) take into account the proposals contained in the citizen petition (FDA Docket No. 91P-0434/CP) jointly submitted by the American Veterinary Medical Association and the Animal Health Institute, dated October 21, 1991.

Until the regulations required by subparagraph (A) are issued, nothing in the regulations published at 21 C.F.R. 514.111(a)(5) (April 1, 1996) shall be construed to compel the Secretary of Health and Human Services to require a field investigation under section 512(d)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)(1)(E)) or to apply any of its provisions in a manner inconsistent with the considerations for scientifically sound field investigations set forth in subparagraph (A).

(f) MINOR SPECIES AND USES.—The Secretary of Health and Human Services shall consider legislative and regulatory options for facilitating the approval under section 512 of the Federal Food, Drug, and Cosmetic Act of animal drugs intended for minor species and for minor uses and, within 18 months after the date of enactment of this Act, announce proposals for legislative or regulatory change to the approval process under such section for animal drugs intended for use in minor species or for minor uses.

SEC. 3. LIMITATION ON RESIDUES.

Section 512(d)(1)(F) (21 U.S.C. 360b(d)(1)(F)) is amended to read as follows:

"(F) upon the basis of information submitted to the Secretary as part of the application or any other information before the Secretary with respect to such drug, any use prescribed, recommended, or suggested in labeling proposed for such drug will result in a residue of such drug in excess of a tolerance found by the Secretary to be safe for such drug;".

SEC. 4. IMPORT TOLERANCES.

Section 512(a) (21 U.S.C. 360b(a)) is amended by adding the following new paragraph at the end:

"(6) For purposes of section 402(a)(2)(D), a use or intended use of a new animal drug shall not be deemed unsafe under this section if the Secretary establishes a tolerance for such drug and any edible portion of any animal imported into the United States does not contain residues exceeding such tolerance. In establishing such tolerance, the Secretary shall rely on data sufficient to demonstrate that a proposed tolerance is safe based on similar food safety criteria used by the Secretary to establish tolerances for applications for new animal drugs filed under subsection (b)(1). The Secretary may consider and rely on data submitted by the drug manufacturer, including data submitted to appropriate regulatory authorities in any country where the new animal drug is lawfully used or data available from a relevant international organization, to the extent such data are not inconsistent with the criteria used by the Secretary to establish a tolerance for applications for new animal drugs filed under subsection (b)(1). For purposes of this paragraph, 'relevant international organization' means the Codex Alimenterius Commission or other international organization deemed appropriate by

the Secretary. The Secretary may, under procedures specified by regulation, revoke a tolerance established under this paragraph if information demonstrates that the use of the new animal drug under actual use conditions results in food being imported into the United States with residues exceeding the tolerance or if scientific evidence shows the tolerance to be unsafe.".

SEC. 5. VETERINARY FEED DIRECTIVES.

(a) SECTION 503.—Section 503(f)(1)(A) (21 U.S.C. 353(f)(1)(A)) is amended by inserting after "other than man" the following: ", other than a veterinary feed directive drug intended for use in animal feed or an animal feed bearing or containing a veterinary feed directive drug,".

(b) SECTION 504.—The Federal Food, Drug, and Cosmetic Act is amended by inserting after section 503 the following:

"VETERINARY FEED DIRECTIVE DRUGS

"SEC. 504. (a)(1) A drug intended for use in or on animal feed which is limited by an approved application filed pursuant to section 512(b) to use under the professional supervision of a licensed veterinarian is a veterinary feed directive drug. Any animal feed bearing or containing a veterinary feed directive drug shall be fed to animals only by or upon a lawful veterinary feed directive issued by a licensed veterinarian in the course of the veterinarian's professional practice. When labeled, distributed, held, and used in accordance with this section, a veterinary feed directive drug and any animal feed bearing or containing a veterinary feed directive drug shall be exempt from section 502(f).

"(2) A veterinary feed directive is lawful if it—

"(A) contains such information as the Secretary may by general regulation or by order require; and

"(B) is in compliance with the conditions and indications for use of the drug set forth in the notice published pursuant to section 512(i).

"(3)(A) Any persons involved in the distribution or use of animal feed bearing or containing a veterinary feed directive drug and the licensed veterinarian issuing the veterinary feed directive shall maintain a copy of the veterinary feed directive applicable to each such feed, except in the case of a person distributing such feed to another person for further distribution. Such person distributing the feed shall maintain a written acknowledgment from the person to whom the feed is shipped stating that that person shall not ship or move such feed to an animal production facility without a veterinary feed directive or ship such feed to another person for further distribution unless that person has provided the same written acknowledgment to its immediate supplier.

"(B) Every person required under subparagraph (A) to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(C) Any person who distributes animal feed bearing or containing a veterinary feed directive drug shall upon first engaging in such distribution notify the Secretary of that person's name and place of business. The failure to provide such notification shall be deemed to be an act which results in the drug being misbranded.

"(b) A veterinary feed directive drug and any feed bearing or containing a veterinary feed directive drug shall be deemed to be misbranded if their labeling fails to bear such cautionary statement and such other information as the Secretary may by general regulation or by order prescribe, or their advertising fails to conform to the conditions and indications for use published pursuant to section 512(i) or fails to contain the general cautionary statement prescribed by the Secretary.

"(c) Neither a drug subject to this section, nor animal feed bearing or containing such a drug, shall be deemed to be a prescription article under any Federal or State law.".

(c) CONFORMING AMENDMENT.—Section 512 (21 U.S.C. 360b) is amended in subsection (i) by inserting after "(including special labeling requirements" the following: "and any requirement that an animal feed bearing or containing the new animal drug be limited to use under the professional supervision of a licensed veterinarian".

(d) SECTION 301(e).—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting after "by section 412" the following: ", 504,"; and by inserting after "under section 412," the following: "504,".

SEC. 6. FEED MILL LICENSES.

(a) SECTION 512(a).—Paragraphs (1) and (2) of section 512(a) (21 U.S.C. 360b(a)) are amended to read as follows:

"(a)(1) A new animal drug shall, with respect to any particular use or intended use of such drug, be deemed unsafe for the purposes of section 501(a)(5) and section 402(a)(2)(D) unless —

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such use or intended use of such drug, and

"(B) such drug, its labeling, and such use conform to such approved application.

A new animal drug shall also be deemed unsafe for such purposes in the event of removal from the establishment of a manufacturer, packer, or distributor of such drug for use in the manufacture of animal feed in any State unless at the time of such removal such manufacturer, packer, or distributor has an unrevoked written statement from the consignee of such drug, or notice from the Secretary, to the effect that, with respect to the use of such drug in animal feed, such consignee (i) holds a license issued under subsection (m) and has in its possession current approved labeling for such drug in animal feed; or (ii) will, if the consignee is not a user of the drug, ship such drug only to a holder of a license issued under subsection (m).

"(2) An animal feed bearing or containing a new animal drug shall, with respect to any particular use or intended use of such animal feed be deemed unsafe for the purposes of section 501(a)(6) unless—

"(A) there is in effect an approval of an application filed pursuant to subsection (b) with respect to such drug, as used in such animal feed,

"(B) such animal feed is manufactured at a site for which there is in effect a license issued pursuant to subsection (m)(1) to manufacture such animal feed, and

"(C) such animal feed and its labeling, distribution, holding, and use conform to the conditions and indications of use published pursuant to subsection (i) .".

(b) SECTION 512(m).—Section 512(m) (21 U.S.C. 360b(m)) is amended to read as follows:

"(m)(1) Any person may file with the Secretary an application for a license to manufacture animal feeds bearing or containing new animal drugs. Such person shall submit to the Secretary as part of the application (A) a full statement of the business name and address of the specific facility at which the manufacturing is to take place and the facility's registration number, (B) the name and signature of the responsible individual or individuals for that facility, (C) a certification that the animal feeds bearing or containing new animal drugs are manufactured and labeled in accordance with the applicable regulations published pursuant to subsection (i), and (D) a certification that the methods used in, and the facilities and controls used for, manufacturing, processing, packaging, and holding such animal feeds are in conformity with current good manufacturing practice as described in section 501(a)(2)(B).

"(2) Within 90 days after the filing of an application pursuant to paragraph (1), or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall (A) issue an order approving the application if the Secretary then finds that none of the grounds for denying approval specified in paragraph (3) applies, or (B) give the applicant notice of an opportunity for a hearing before the Secretary under paragraph (3) on the question whether such application is approvable. The procedure governing such a hearing shall be the procedure set forth in the last two sentences of subsection (c)(1).

"(3) If the Secretary, after due notice to the applicant in accordance with paragraph (2) and giving the applicant an opportunity for a hearing in accordance with such paragraph, finds, on the basis of information submitted to the Secretary as part of the application, on the basis of a preapproval inspection, or on the basis of any other information before the Secretary—

"(A) that the application is incomplete, false, or misleading in any particular;

"(B) that the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such animal feed are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein; or

"(C) that the facility manufactures animal feeds bearing or containing new animal drugs in a manner that does not accord with the specifications for manufacture or labels animal feeds bearing or containing new animal drugs in a manner that does not accord with the conditions or indications of use that are published pursuant to subsection (i),

the Secretary shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that subparagraphs (A) through (C) do not apply, the Secretary shall issue an order approving the application. An order under this subsection approving an application for a license to manufacture animal feeds bearing or containing new animal drugs shall permit a facility to manufacture only those animal feeds bearing or containing new animal drugs for which there are in effect regulations pursuant to subsection (i) relating to the use of such drugs in or on such animal feed.

"(4)(A) The Secretary shall, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feeds bearing or containing new animal drugs under this subsection if the Secretary finds—

"(i) that the application for such license contains any untrue statement of a material fact; or

"(ii) that the applicant has made changes that would cause the application to contain any untrue statements of material fact or that would affect the safety or effectiveness

of the animal feeds manufactured at the facility unless the applicant has supplemented the application by filing with the Secretary adequate information respecting all such changes and unless there is in effect an approval of the supplemental application.

If the Secretary (or in the Secretary's absence the officer acting as the Secretary) finds that there is an imminent hazard to the health of humans or of the animals for which such animal feed is intended, the Secretary may suspend the license immediately, and give the applicant prompt notice of the action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this sentence shall not be delegated.

"(B) The Secretary may also, after due notice and opportunity for hearing to the applicant, revoke a license to manufacture animal feed under this subsection if the Secretary finds—

"(i) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports in accordance with a regulation or order under paragraph (5)(A) of this subsection or section 504(a)(3)(A), or the applicant has refused to permit access to, or copying or verification of, such records as required by subparagraph (B) of such paragraph or section 504(a)(3)(B);

"(ii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the methods used in, or the facilities and controls used for, the manufacture, processing, packing, and holding of such animal feed are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and were not made adequate within a reasonable time after receipt of written notice from the Secretary, specifying the matter complained of;

"(iii) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the labeling of any animal feeds, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or

"(iv) that on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such license was issued, the facility has manufactured, processed, packed, or held animal feed bearing or containing a new animal drug adulterated under section 501(a)(6) and the facility did not discontinue the manufacture, processing, packing, or holding of such animal feed within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of.

"(C) The Secretary may also revoke a license to manufacture animal feeds under this subsection if an applicant gives notice to the Secretary of intention to discontinue the manufacture of all animal feed covered under this subsection and waives an opportunity for a hearing on the matter.

"(D) Any order under this paragraph shall state the findings upon which it is based.

"(5) When a license to manufacture animal feeds bearing or containing new animal drugs has been issued—

"(A) the applicant shall establish and maintain such records, and make such reports to the Secretary, or (at the option of the Secretary) to the appropriate person or persons holding an approved application filed under subsection (b), as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) or paragraph (4); and

"(B) every person required under this subsection to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

"(6) To the extent consistent with the public health, the Secretary may promulgate regulations for exempting from the operation of this subsection facilities that manufacture, process, pack, or hold animal feeds bearing or containing new animal drugs.".

(c) TRANSITIONAL PROVISION.—A person engaged in the manufacture of animal feeds bearing or containing new animal drugs who holds at least one approved medicated feed application for an animal feed bearing or containing new animal drugs, the manufacture of which was not otherwise exempt from the requirement for an approved medicated feed application on the date of the enactment of this Act, shall be deemed to hold a license for the manufacturing site identified in the approved medicated feed application. The revocation of license provisions of section 512(m)(4) of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, shall apply to such licenses. Such license shall expire within 18 months from the date of enactment of this Act unless the person submits to the Secretary a completed license application for the manufacturing site accompanied by a copy of an approved medicated feed application for such site, which license application shall be deemed to be approved upon receipt by the Secretary.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. BILIRAKIS].

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

Mr. Speaker, I rise in strong support of H.R. 2508, The Animal Drug Availability Act of 1996. The bill will better protect our animals by streamlining the approval and marketing of new animal drugs and medicated feeds.

A broad bipartisan consensus has enabled us to develop this important legislation which will bring needed flexibility to the FDA animal drug review processes.

Among its improvements, the legislation redefines "substantial evidence" to provide FDA with greater flexibility to determine what types of studies, including field investigations, are necessary and appropriate for demonstrating the effectiveness of any specific animal drug product. The bill requires FDA to issue regulations defining substantial evidence and adequate and well-controlled field investigations taking into account the practical conditions that exist in the field.

To improve cooperation between FDA and industry, the bill requires FDA to hold a presubmission conference at the request of a sponsor submitting a new animal drug application or a request for an investigational exemption.

The legislation also streamlines the process for the approval of combination animal drug products when the individual active ingredients or animal drugs used in combination have been approved previously. In addition it authorizes FDA to establish a scientifically based safe tolerance for new animal drugs.

The bill creates a new class of animal drugs, veterinary feed directive drugs, intended for use in feed under the professional supervision of a licensed veterinarian. The bill streamlines the requirements for feed mills that make medicated feeds. Finally, the bill authorizes FDA to establish import tolerances for new animal drugs not approved in the United States.

In conclusion, I want to thank Members on both sides of the aisle who support the Animal Drug Availability Act of 1996.

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

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

Mr. Speaker, the Animal Drug Availability Act makes important changes to the process by which the Food and Drug Administration reviews applications for new animal drugs.

We have heard a great deal in this Congress about reforming Government and streamlining regulation. This legislation demonstrates that these goals can be accomplished if all of the interested parties are willing to negotiate. This amendment to H.R. 2508 is the result of compromise between the FDA and the animal drug coalition. It is bipartisan, and it achieves reforms responsibly and carefully.

We are pleased that this legislation incorporates FDA proposals included in the Vice President's reinventing Government initiatives, one that will reduce unnecessary requirements and paperwork associated with feed mill licensing and another that will authorize FDA to establish import tolerances for animal drugs not approved for use in the United States.

The provisions of this bill complete a task begun with enactment in 1994 of the Animal Medicinal Drug Use Clarification Act. When the House passed that important legislation, we knew that expanding drug availability would require addressing the underlying issue that there are not enough new animal drugs available for veterinarians to treat all the diseases and conditions that affect animals. That is the issue dealt with by H.R. 2508.

The legislation does this through simplifying the process if determining an animal drug's effectiveness; establishing a process by which FDA and the

animal drug sponsor can agree in advance about what the sponsor must provide FDA to facilitate the approval of the new product; providing a streamlined process for FDA to review combination drugs; and establishing a new category of animal drugs, called Veterinary Feed Directive drugs.

Mr. Speaker, this is good legislation. It will help FDA work more efficiently, and it will help get safe and effective new animal drugs on the market more quickly. It illustrates that a cooperative effort between a regulatory agency, its regulated community, and Congress can produce results that all parties find acceptable. This is how regulatory reform can and should work.

I support this legislation, and I urge my colleagues to support it.

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

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG] who will speak on behalf of himself and a few hundred thousand cattle in Wisconsin.

The SPEAKER pro tempore. Including the dairy farmers of the Chair.

Mr. KLUG. Mr. Speaker, 319,000 dairy cows, to be more specific.

Mr. Speaker, I would like to thank my colleague, the gentleman from Florida [Mr. BILIRAKIS], for his terrific work on behalf of this legislation, and also the full chairman of committee, the gentleman from Virginia [Mr. BLILEY], and my colleague, the gentleman from Colorado [Mr. ALLARD], one of the few veterinarians in Congress, who has been such a strong advocate for this piece of legislation.

Mr. Speaker, as you know, for the last year the Committee on Commerce has been struggling with the ways to modernize the Food and Drug Administration, which now regulates a quarter of this Nation's economy. We have high hopes in the next session of Congress we will be able to streamline the process to approve prescription drugs and also medical devices.

Part of what we have been able to accomplish this session of Congress are two major changes in terms of the FDA's responsibility in food content. One of them is the modernization of the Delaney clause, and then this piece of legislation we have in front of us today.

As we know, the current law requires animal drugs to be approved in 6 months, but it actually takes an average of 58 months. Only 1 in 7,500 chemicals ever makes it through the current approval process. In the past 5 years the FDA has approved only four new drugs for food-producing animals.

Realistically, without this bill minor use products would never be brought to market, and the time and expense of bringing a new animal drug to market is already discouraging drug companies from pursuing approval for important medications.

This legislation today will establish a procedure by which the agency and company can sit down ahead of time to discuss the approval requirements for a new drug. It would create a new category of drugs that can be prescribed by a veterinarian and administered by a farmer in the animal's feed and it would refocus the regulation of the use of two or more drugs simultaneously on the need to prove the safety to humans.

This piece of legislation has the support of 160 cosponsors in the House, the Clinton administration supports it, FDA Commissioner Kessler supports it, industry supports the bill, and I strongly support this bill and encourage my fellow committee members, as well as my colleagues in the House, to approve it as well.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. ALLARD], a sponsor of this very much needed legislation.

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

Mr. Speaker, first of all, I would like to extend my thanks to other members of the committee, the gentleman from Florida [Mr. BILIRAKIS], the gentleman from Virginia [Mr. BLILEY], the gentleman from Iowa [Mr. GANSKE], the gentleman from Wisconsin [Mr. KLUG], who we just heard on the floor, and then the gentleman from Michigan [Mr. DINGELL]. I appreciate all of their efforts in making sure that this legislation came out of committee in good shape. I know they worked very hard to make sure that we ended up with a good piece of legislation.

Mr. Speaker, this has been a bipartisan effort, both Democrats and Republicans working together with the administration to reform the Food and Drug Administration as they apply the laws as they apply to animal drugs.

This is the second major reform of the Food and Drug Administration. The first was the Delaney reform, and then this is the second step, which is the animal Food and Drug Administration reform. Both of these provisions are going to be a great help to the agricultural community.

We are looking at a crisis as far as approval of animal drugs is concerned. The drugs are being approved at a very slow rate, and it is having an impact on the type of quality and care, not only to the livestock, but also to pets.

To further compound this problem, over the past several years, the Food and Drug Administration has taken a number of drugs off of the market, and the research has not been moving along at an adequate enough rate to replace the loss of these particular products. As a consequence of that, we have lost animals to disease and also had an increased mortality rate on animals, which also cuts down on production.

When a drug has finally been approved after some time, and I would say, again, an internal audit by the FDA shows it takes an average of 58 months to approve a new drug, this law will take it down to where it actually will take only 6 months.

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Because of this, the number of drugs that have been approved over the last 23 years have dwindled. We used to have about 60 drugs approved in 1 year, about two decades ago, in 1973; and now, this last year, we have only had 10 approved. This certainly is not keeping up with science.

This is a tremendous disincentive for drug companies to create new products when it takes this long extended length of period for approval. And now, in order to develop a new product, we are looking at a cost of anywhere from $15 to $200 million, and yet most of these animal drugs have a very limited market and will generate sales of only a million dollars or less.

I think this legislation is going to help solve this problem. It will help make these drugs available for animals, both pets and in the livestock industry, and it is going to move forward many of the advances that should be moved forward and made available to the public.

In conclusion, I want to thank again the members of the committee for all their hard work on this issue and I hope that we will continue to move forward in our efforts to reform the Food and Drug Administration.

Mr. MANTON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, I too rise today in support of the Animal Drug Availability Act. This is Congress at its best, a bipartisan effort which is going to really streamline the efforts at the FDA, that is going to help really major livestock, poultry producers, commercial feed industry, veterinarians, some animal owners, and pharmaceutical companies as well.

Currently it takes the FDA an average of 58 months to a new animal drug, and the cost of bringing a drug to the approval stage in some instances can approach $200 million.

If the consensus bill becomes law, it will give the FDA greater flexibility in determining the type and number of studies it can accept as proof of an animal drug's efficacy.

It will reduce efficacy testing when a drug company seeks approval to use in combination two drugs that are already approved individually.

It will eliminate the requirement that a time-consuming field investigation be used in all instances to prove efficacy.

It will create a presubmission conference at which the FDA drug companies will agree before an application is submitted on the types of tests needed to approve a drug's effectiveness.

And it will increase veterinary oversight in dispensing of certain feed drugs.

In addition, the bill implements two items from the National Performance Review. It would allow FDA to set tolerance for drugs used on farm animals whose meat ultimately is imported into the United States. It also would reduce significantly the paperwork involved in licensing of a feed mill to mix animal drugs with feed.

The consensus bill maintains all human and animal health protections in current law.

Having spoken to individual veterinarians and pet owners, who have unfortunately been denied access to some of the drugs that hopefully will be readily accessible as soon as this bill is adopted, I can again speak from their personal experiences of how valuable I believe this bill will be once it is adopted into law.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], who, if he does not have the largest animal drug manufacturer in his district, I understand he certainly has one of the largest.

Mr. BEREUTER. Mr. Speaker, I thank the distinguished gentleman from Florida for yielding me this time.

I rise in support of H.R. 2508, the Animal Drug Availability Act. As original cosponsor of this important legislation, I would like to commend the distinguished gentlemen from Florida and New York, and the gentleman from Virginia, Mr. BLILEY, and the gentleman from Michigan, Mr. DINGELL, the ranking member, for bringing this work to the floor today. Certainly I also commend my distinguished colleague from Colorado, Mr. ALLARD, for his initiative in introducing the bill.

Mr. Speaker, this legislation is clearly needed to streamline the bureaucracy and improve the current, outdated process of approving new animal health products. Our Nation's livestock producers deserve to have the best new products available in a timely and efficient manner. This is commonsense legislation which has strong, bipartisan support in Congress and broad support in the agricultural and veterinary science communities.

The need for change is obvious. Although research and development costs have increased dramatically in recent decades, the number of new animal health products being approved by the Food and Drug Administration's Center for Veterinary Medicine has declined. The Animal Drug Availability Act modifies requirements for proving efficacy, streamlines the bureaucracy involved in approving new claims for products used in the treatment of minor species, simplifies requirements for combination drugs, and makes other improvements in the current process. Mr. Speaker, quite simply, this legislation will improve the ability of manufacturers to provide the animal health products needed by our Nation's farmers and pet owners, among others. Therefore, this Member strongly urges his colleagues to support H.R. 2508, the Animal Drug Availability Act.

Mr. BILIRAKIS. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. GANSKE], who, as we know, performed a humanitarian act in South America during the break and has come back with a fairly serious sickness.

As I understand it, he came back specifically today to speak on this particular piece of legislation because he feels very strongly about it.

The SPEAKER pro tempore (Mr. GUNDERSON). If the gentleman from Iowa would suspend for just a moment, I know the Chair speaks for all Members in welcoming him back.

The gentleman from Iowa is now recognized.

Mr. GANSKE. Mr. Speaker, first let me thank Members of both sides of the aisle for their get-well wishes. I appreciate it very much.

Earlier this month I was seriously ill and so I want to speak about this bill in a little different vein, so to speak.

There will be a lot of talk about how this bill will economically be beneficial to farmers, and that is true, and this will help our country, I think, compete internationally in terms of livestock production.

But I want to speak about something else. We have not had new drugs to treat animals, have many of them, for a long time, and this bill will streamline the process and help us get new ones. There is a term called animal husbandry. It is an old term. It has been applied to farmers, but I think it is appropriate.

When a farmer has a herd or has a flock, and they come down with a respiratory infection and they are suffering and they are sick, that farmer is not thinking just about the economic impact. He is looking at his flock and he is looking at his herds and he knows they are sick and he knows they are suffering. And if you talk to a family that has had a pet and their pet dog or cat becomes sick, they see the suffering in that animal.

I have been the beneficiary recently of modern medicine and some good antibiotics and good medicines and I think it is time that we make the modern technology that we have had on the human side more available on the animal side as well.

I really think it is the only humanitarian thing to do. It will be beneficial economically, but even more importantly, I think it will help prevent animals from suffering when they are sick. I urge all of my colleagues to vote for this bipartisan bill.

Mr. MILLER of California. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 3217, the National Invasive Species Act, which we consider today. This legislation embodies a reasonable approach to addressing economic and environmental concerns while maintaining sensitivity to the maritime industry. It will establish a national voluntary ballast management program for vessels visiting U.S. ports. In addition to ballast management, this legislation will provide for research, education, and new technology to investigate and prevent species introduction in coastal and inland waters. In short, it is a major step toward protecting our natural resources.

Prevention of further species introductions can occur to a great extent by ballast exchange as provided in this legislation. I only caution that the ballast exchange provisions in this bill are based on a large part on a good faith agreement with industry to take appropriate responsibility for the consequences of ballast transport. Based on industry's support of this bill, I believe that agreement is sound. However, I would encourage the Coast Guard to be diligent in monitoring compliance and assessing the effectiveness of those voluntary guidelines, and, where necessary, make mandatory regulations to ensure protection for regions that are critically impacted by nonindigenous species.

Some regions of our country such as the San Francisco Bay-Delta Estuary are especially susceptible to species introduction from ballast water. There are greater than 200 nonindegenous species identified so far in the bay-delta with one new species established every 12 weeks. In fact, the bay-delta is recognized as the most invaded aquatic ecosystem in North America. These nonindigenous species are having serious consequences on California's aquatic ecosystem, water supplies, fisheries, and agricultural industry. This legislation will address those consequences through prevention as well as research efforts in the bay-delta. Understanding the patterns of species introductions and reducing the occurrence of those introductions is imperative in promoting the economic and ecological health of the bay-delta as well as the rest of our coastal regions.

I thank Mr. LATOURETTE for his leadership on this bill. I would also thank my colleague from California, Mr. FILNER, as well as Chairman SHUSTER and Mr. OBERSTAR, for working with me to include provisions which address critical concerns in California.

Mr. HASTERT. Mr. Speaker, I rise in strong support of H.R. 2508, the Animal Drug Availability Act of 1995. I'd like to commend the gentleman from Colorado [Mr. ALLARD] for crafting a bill that enjoys such broad, bipartisan support. I know of no opposition to this bill.

This bill is critical to animal agriculture and is sorely needed to improve the animal drug approval process. Currently, it takes the FDA an average of 58 months to approve a new animal drug, and the cost of bringing a drug to approval in some instances can be as high as $200 million. This bill will streamline the approval process for animal drugs, making safe drugs available more quickly and less expensively.

Clearly, the pork, cattle, poultry, and wool producers in my district in Illinois will benefit tremendously from this legislation, as will

every pet owner in the country. But the benefits of this bill go far beyond making life a little easier for our farmers and for our animals. Ultimately, the real benefactors of this legislation will be every consumer across America, as safe, cheaper animal products are made more available.

The bill before us today represents a consensus that has been negotiated with the FDA. It enjoys broad bipartisan congressional support, and the full support of the administration. I urge quick passage today of the Animal Drug Availability Act. Thank you; I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, we now take up a bill that is important to protect animal health at home and on the farm. The animal health industry keeps our pets healthy—including some 130 million dogs and cats—and agricultural animals that are vital to our food supply. The animal health industry protects human health by safeguarding the health of food and domestic animals.

I have heard repeated concern from Members on both sides of the aisle that our FDA system for reviewing animal drug products needs significant improvement. Their concern reflects the frustration of diverse groups including agricultural interests, the animal drug industry, veterinarians, and animal producer groups.

Our arsenal of drugs to fight animal disease is not growing.

The FDA review process for animal drugs is much too slow—instead of 6 months, the process has averaged up to 5 years.

Some industry has become discouraged and divested animal drug development capability.

Mr. ALLARD, Mr. GANSKE, Mr. KLUG, have been among those who said that it's time to take action and make changes. I particularly want to thank Mr. GANSKE who has come from his hospital bed to be here today to demonstrate his support. Even the administration recognized the need to reform to streamline animal drug regulation and made its own proposals that were consistent with our views.

The committee considered animal drug regulations as part of a broader initiative to streamline FDA regulation. We have made significant progress and I am very pleased that today we take up the completed animal drug reforms in H.R. 2508.

The committee efforts have been helped by collaboration from the administration, the animal health coalition, veterinarians, and others interested in safeguarding our animals. I would like to thank each of them and their dedicated staff for their hard work.

H.R. 2508 will facilitate the approval and marketing of new animal drugs and medicated feeds. It builds needed flexibility into the FDA animal drug review processes to enable more efficient approval and more expeditious marketing of safe and effective animal drugs.

H.R. 2508 accomplishes streamlines without decreasing FDA's existing authority to ensure that animal drug products are safe for the animals that use them and for the humans who consume animal food products.

Our reforms are sensible, pragmatic, and above all else, protective of public health. Of this accomplishment, I believe we can rightly be proud.

Mr. STENHOLM. Mr. Speaker, H.R. 2508 is an example of how serious reform can and should occur. The Animal Drug Availability Act of 1995 enjoys broad support from camps that do not always see things from the same viewpoint, however, both the FDA and the regulated community agree on the reform embodied in H.R. 2508. Additionally, the users of animal drugs, the veterinarians, and the various animal agriculture groups representing farmers and ranchers that raise beef, pork, and poultry all support this bill. The Animal Drug Availability Act represents what can be accomplished when all involved, regulators, those regulated, and the end users sit down and sincerely listen to each other. Unfortunately, the larger issue of FDA reform has been slowed for a variety of reasons. Hopefully, this bill should serve as an example of how future Congresses can approach larger FDA reform and of the progress that can result from bipartisan discussion open to all stakeholders.

H.R. 2508, the Animal Drug Availability Act of 1995, represents common sense reform that reduces regulatory hurdles for efficacy testing and preserves safety testing. Let me say that again. The Animal Drug Availability Act does not reduce evaluation of products on the basis of human safety, nor does it reduce the FDA's ability to require target animal safety information. Essential safety standards for humans and animals would not be weakened in any way. The effect of the reform should be a speedier approval process without jeopardizing safety confidence.

Animal health products many times do not command lucrative markets and it is difficult to justify investment into research and development for a new product or an additional approved use on a label if markets are limited or absent. Currently a large commitment in time and money is required to prove a product's efficacy claims. This bill would give the FDA greater flexibility in determining the type and number of studies it can accept as proof of an animal drug's efficacy. Streamlining the process and eliminating unnecessary field trials should speed the time to an approval decision and hopefully reduce some negative economic pressures being applied by the regulatory system.

Small markets or limited economic incentives, do not mean that drugs for animals are not important. Take for instance the cattleman who has experienced difficult times with low cattle prices who may be trying to diversify and is starting to raise ostriches or pheasants, or a farmer who is involved in aquaculture, or even the wildlife or zoo veterinarian who deals with very unique patients. These are examples of animals that as a species represent few in number and generate very little economic incentive for a drug manufacturer to pursue R&D in that area . . .the so-called minor use/minor species problem of animal drugs. The legislation that legalized extra label drug use in animals by veterinarians was sponsored by this Member and others in the last Congress—the Animal Medicinal Drug Clarification Act of 1994. Extra label drug use will always be necessary, however, this bill will potentially help reduce the reliance on using drugs extra label. It can offer an opportunity for FDA to evaluate how the Animal Medicinal Drug Use Clarification Act and the Animal Drug Availability Act could efficiently work together.

It is with some pride, as sponsor of the legislation that dealt with extra label use of animal drugs and now as one of the original cosponsors of the Animal Drug Availability Act, that this House is here addressing this issue on the Suspension Calendar. I am proud that animal drug regulatory reform may very well become an example of how larger FDA regulatory reform can be accomplished. I ask my colleagues to support H.R. 2508 and encourage the Senate to act quickly so that the President can sign this appropriate reform into law.

Mr. ROBERTS. Mr. Speaker, I rise in strong support of this legislation which is vital to the future health of the Nation's livestock and poultry industry in rural districts throughout this country. H.R. 2508, the Animal Drug Availability Act, is a noncontroversial, bipartisan bill that streamlines and significantly improves the process by which animal drugs are approved. The bill expands the types of studies FDA can accept as proof of a drug's efficacy; requires FDA and drug companies to agree to test protocols before a company submits a drug application for approval; eliminates time-consuming field investigations, unless they are the only way to prove a drug's efficacy; eliminates some efficacy testing when a company seeks to use two individually approved drugs in combination; creates veterinary feed directive drugs which increase veterinarian involvement in dispensing animal drugs; and eliminates much of the licensing paperwork for feed mills that dispense animal drugs.

The bottom line: this bill is perhaps the most significant thing this Congress can do to help the livestock and poultry industry reduce their cost of production and become more competitive.

The cumbersome and lengthy process of getting animal drug approvals from FDA has led to several U.S. animal drug companies setting up plants overseas. Passage of this bill will also help stem the flow of jobs—well paying jobs—from this country.

I am pleased to finally get a chance to discuss and vote on this important piece of legislation and I would strongly urge my colleagues to vote in favor of its passage.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. BILIRAKIS] that the House suspend the rules and pass the bill, H.R. 2508, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks on H.R. 2508.

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

There was no objection.

CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. SMITH of Texas submitted the following conference report and statement on the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-828)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202), to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for the eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; APPLICATION OF DEFINITIONS OF SUCH ACT; TABLE OF CONTENTS; SEVERABILITY.

(a) SHORT TITLE.—This Act may be cited as the "Illegal Immigration Reform and Immigrant Responsibility Act of 1996".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided—

(1) whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act; and

(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this Act.

(c) APPLICATION OF CERTAIN DEFINITIONS.—Except as otherwise specifically provided in this Act, for purposes of titles I and VI of this Act, the terms "alien", "Attorney General", "border crossing identification card", "entry", "immigrant", "immigrant visa", "lawfully admitted for permanent residence", "national", "naturalization", "refugee", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

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

Sec. 1. Short title; amendments to Immigration and Nationality Act; application of definitions of such Act; table of contents.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

Sec. 101. Border patrol agents and support personnel.
Sec. 102. Improvement of barriers at border.
Sec. 103. Improved border equipment and technology.
Sec. 104. Improvement in border crossing identification card.
Sec. 105. Civil penalties for illegal entry.
Sec. 106. Hiring and training standards.
Sec. 107. Report on border strategy.
Sec. 108. Criminal penalties for high speed flights from immigration checkpoints.
Sec. 109. Joint study of automated data collection.
Sec. 110. Automated entry-exit control system.
Sec. 111. Submission of final plan on realignment of border patrol positions from interior stations.
Sec. 112. Nationwide fingerprinting of apprehended aliens.

Subtitle B—Facilitation of Legal Entry

Sec. 121. Land border inspectors.
Sec. 122. Land border inspection and automated permit pilot projects.
Sec. 123. Preinspection at foreign airports.
Sec. 124. Training of airline personnel in detection of fraudulent documents.
Sec. 125. Preclearance authority.

Subtitle C—Interior Enforcement

Sec. 131. Authorization of appropriations for increase in number of certain investigators.
Sec. 132. Authorization of appropriations for increase in number of investigators of visa overstayers.
Sec. 133. Acceptance of State services to carry out immigration enforcement.
Sec. 134. Minimum State INS presence.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

Sec. 201. Wiretap authority for investigations of alien smuggling or document fraud.
Sec. 202. Racketeering offenses relating to alien smuggling.
Sec. 203. Increased criminal penalties for alien smuggling.
Sec. 204. Increased number of assistant United States Attorneys.
Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
Sec. 212. New document fraud offenses; new civil penalties for document fraud.
Sec. 213. New criminal penalty for failure to disclose role as preparer of false application for immigration benefits.
Sec. 214. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
Sec. 215. Criminal penalty for false claim to citizenship.
Sec. 216. Criminal penalty for voting by aliens in Federal election.
Sec. 217. Criminal forfeiture for passport and visa related offenses.
Sec. 218. Penalties for involuntary servitude.
Sec. 219. Admissibility of videotaped witness testimony.
Sec. 220. Subpoena authority in document fraud enforcement.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

Sec. 301. Treating persons present in the United States without authorization as not admitted.
Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
Sec. 305. Detention and removal of aliens ordered removed (new section 241).
Sec. 306. Appeals from orders of removal (new section 242).
Sec. 307. Penalties relating to removal (revised section 243).
Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
Sec. 309. Effective dates; transition.

Subtitle B—Criminal Alien Provisions

Sec. 321. Amended definition of aggravated felony.
Sec. 322. Definition of conviction and term of imprisonment.
Sec. 323. Authorizing registration of aliens on criminal probation or criminal parole.
Sec. 324. Penalty for reentry of deported aliens.
Sec. 325. Change in filing requirement.
Sec. 326. Criminal alien identification system.
Sec. 327. Appropriations for criminal alien tracking center.
Sec. 328. Provisions relating to State criminal alien assistance program.
Sec. 329. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
Sec. 330. Prisoner transfer treaties.
Sec. 331. Prisoner transfer treaties study.
Sec. 332. Annual report on criminal aliens.
Sec. 333. Penalties for conspiring with or assisting an alien to commit an offense under the Controlled Substances Import and Export Act.
Sec. 334. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.

Subtitle C—Revision of Grounds for Exclusion and Deportation

Sec. 341. Proof of vaccination requirement for immigrants.
Sec. 342. Incitement of terrorist activity and provision of false documentation to terrorists as a basis for exclusion from the United States.
Sec. 343. Certification requirements for foreign health-care workers.

Sec. 344. Removal of aliens falsely claiming United States citizenship.
Sec. 345. Waiver of exclusion and deportation ground for certain section 274C violators.
Sec. 346. Inadmissibility of certain student visa abusers.
Sec. 347. Removal of aliens who have unlawfully voted.
Sec. 348. Waivers for immigrants convicted of crimes.
Sec. 349. Waiver of misrepresentation ground of inadmissibility for certain alien.
Sec. 350. Offenses of domestic violence and stalking as ground for deportation.
Sec. 351. Clarification of date as of which relationship required for waiver from exclusion or deportation for smuggling.
Sec. 352. Exclusion of former citizens who renounced citizenship to avoid United States taxation.
Sec. 353. References to changes elsewhere in Act.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

Sec. 354. Treatment of classified information.
Sec. 355. Exclusion of representatives of terrorists organizations.
Sec. 356. Standard for judicial review of terrorist organization designations.
Sec. 357. Removal of ancillary relief for voluntary departure.
Sec. 358. Effective date.

Subtitle E—Transportation of Aliens

Sec. 361. Definition of stowaway.
Sec. 362. Transportation contracts.

Subtitle F—Additional Provisions

Sec. 371. Immigration judges and compensation.
Sec. 372. Delegation of immigration enforcement authority.
Sec. 373. Powers and duties of the Attorney General and the Commissioner.
Sec. 374. Judicial deportation.
Sec. 375. Limitation on adjustment of status.
Sec. 376. Treatment of certain fees.
Sec. 377. Limitation on legalization litigation.
Sec. 378. Rescission of lawful permanent resident status.
Sec. 379. Administrative review of orders.
Sec. 380. Civil penalties for failure to depart.
Sec. 381. Clarification of district court jurisdiction.
Sec. 382. Application of additional civil penalties to enforcement.
Sec. 383. Exclusion of certain aliens from family unity program.
Sec. 384. Penalties for disclosure of information.
Sec. 385. Authorization of additional funds for removal of aliens.
Sec. 386. Increase in INS detention facilities; report on detention space.
Sec. 387. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
Sec. 388. Report on interior repatriation program.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

Sec. 401. Establishment of programs.
Sec. 402. Voluntary election to participate in a pilot program.
Sec. 403. Procedures for participants in pilot programs.
Sec. 404. Employment eligibility confirmation system.
Sec. 405. Reports.

Subtitle B—Other Provisions Relating to Employer Sanctions

Sec. 411. Limiting liability for certain technical violations of paperwork requirements.
Sec. 412. Paperwork and other changes in the employer sanctions program.
Sec. 413. Report on additional authority or resources needed for enforcement of employer sanctions provisions.
Sec. 414. Reports on earnings of aliens not authorized to work.
Sec. 415. Authorizing maintenance of certain information on aliens.
Sec. 416. Subpoena authority.

Subtitle C—Unfair Immigration-Related Employment Practices

Sec. 421. Treatment of certain documentary practices as unfair immigration-related employment practices.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Sec. 500. Statements of national policy concerning public benefits and immigration.

Subtitle A—Ineligibility of Excludable, Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

Sec. 501. Means-tested public benefits.
Sec. 502. Grants, contracts, and licenses.
Sec. 503. Unemployment benefits.
Sec. 504. Social security benefits.
Sec. 505. Requiring proof of identity for certain public assistance.
Sec. 506. Authorization for States to require proof of eligibility for State programs.
Sec. 507. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits.
Sec. 508. Verification of student eligibility for postsecondary Federal student financial assistance.
Sec. 509. Verification of immigration status for purposes of social security and higher educational assistance.
Sec. 510. No verification requirement for nonprofit charitable organizations.
Sec. 511. GAO study of provision of means-tested public benefits to ineligible aliens on behalf of eligible individuals.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

Sec. 531. Ground for exclusion.
Sec. 532. Ground for deportation.

Subtitle C—Affidavits of Support and Attribution of Income

Sec. 551. Requirements for sponsor's affidavit of support.
Sec. 552. Attribution of sponsor's income and resources to sponsored immigrants.
Sec. 553. Attribution of sponsor's income and resources authority for State and local governments.
Sec. 554. Authority of States and political subdivisions of States to limit assistance to aliens and to distinguish among classes of aliens in providing general cash public assistance.

Subtitle D—Miscellaneous Provisions

Sec. 561. Increased maximum criminal penalties for forging or counterfeiting seal of a Federal department or agency to facilitate benefit fraud by an unlawful alien.
Sec. 562. Computation of targeted assistance.
Sec. 563. Treatment of expenses subject to emergency medical services exception.
Sec. 564. Reimbursement of States and localities for emergency ambulance services.
Sec. 565. Pilot programs to require bonding.
Sec. 566. Reports.

Subtitle E—Housing Assistance

Sec. 571. Short title.
Sec. 572. Prorating of financial assistance.
Sec. 573. Actions in cases of termination of financial assistance.
Sec. 574. Verification of immigration status and eligibility for financial assistance.
Sec. 575. Prohibition of sanctions against entities making financial assistance eligibility determinations.
Sec. 576. Regulations.
Sec. 577. Report on housing assistance programs.

Subtitle F—General Provisions

Sec. 591. Effective dates.
Sec. 592. Statutory construction.
Sec. 593. Not applicable to foreign assistance.
Sec. 594. Notification.
Sec. 595. Definitions.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

Sec. 601. Persecution for resistance to coercive population control methods.
Sec. 602. Limitation on use of parole.
Sec. 603. Treatment of long-term parolees in applying worldwide numerical limitations.
Sec. 604. Asylum reform.
Sec. 605. Increase in asylum officers.
Sec. 606. Conditional repeal of Cuban Adjustment Act.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

Sec. 621. Alien witness cooperation.
Sec. 622. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 623. Use of legalization and special agricultural worker information.
Sec. 624. Continued validity of labor certifications and classification petitions for professional athletes.
Sec. 625. Foreign students.
Sec. 626. Services to family members of certain officers and agents killed in the line of duty.

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

Sec. 631. Validity of period of visas.
Sec. 632. Elimination of consulate shopping for visa overstays.
Sec. 633. Authority to determine visa processing procedures.
Sec. 634. Changes regarding visa application process.
Sec. 635. Visa waiver program.
Sec. 636. Fee for diversity immigrant lottery.
Sec. 637. Eligibility for visas for certain Polish applicants for the 1995 diversity immigrant program.

Subtitle D—Other Provisions

Sec. 641. Program to collect information relating to nonimmigrant foreign students.
Sec. 642. Communication between government agencies and the Immigration and Naturalization Service.
Sec. 643. Regulations regarding habitual residence.
Sec. 644. Information regarding female genital mutilation.
Sec. 645. Criminalization of female genital mutilation.
Sec. 646. Adjustment of status for certain Polish and Hungarian parolees.
Sec. 647. Support of demonstration projects.
Sec. 648. Sense of Congress regarding American-made products; requirements regarding notice.

Sec. 649. Vessel movement controls during immigration emergency.
Sec. 650. Review of practices of testing entities.
Sec. 651. Designation of a United States customs administrative building.
Sec. 652. Mail-order bride business.
Sec. 653. Review and report on H-2A nonimmigrant workers program.
Sec. 654. Report on allegations of harassment by Canadian customs agents.
Sec. 655. Sense of Congress on discriminatory application of New Brunswick provincial sales tax.
Sec. 656. Improvements in identification-related documents.
Sec. 657. Development of prototype of counterfeit-resistant Social Security card.
Sec. 658. Border Patrol Museum.
Sec. 659. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
Sec. 660. Authority for National Guard to assist in transportation of certain aliens.

Subtitle E—Technical Corrections

Sec. 671. Miscellaneous technical corrections.

(e) SEVERABILITY.—If any provision of this Act or the application of such provision to any person or circumstances is held to be unconstitutional, the remainder of this Act and the application of the provisions of this Act to any person or circumstance shall not be affected thereby.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

Subtitle A—Improved Enforcement at the Border

SEC. 101. BORDER PATROL AGENTS AND SUPPORT PERSONNEL.

(a) INCREASED NUMBER OF BORDER PATROL AGENTS.—The Attorney General in each of fiscal years 1997, 1998, 1999, 2000, and 2001 shall increase by not less than 1,000 the number of positions for full-time, active-duty border patrol agents within the Immigration and Naturalization Service above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) INCREASE IN BORDER PATROL SUPPORT PERSONNEL.—The Attorney General, in each of fiscal years 1997, 1998, 1999, 2000, and 2001, may increase by 300 the number of positions for personnel in support of border patrol agents above the number of such positions for which funds were allotted for the preceding fiscal year.

(c) DEPLOYMENT OF BORDER PATROL AGENTS.—The Attorney General shall, to the maximum extent practicable, ensure that additional border patrol agents shall be deployed among Immigration and Naturalization Service sectors along the border in proportion to the level of illegal crossing of the borders of the United States measured in each sector during the preceding fiscal year and reasonably anticipated in the next fiscal year.

(d) FORWARD DEPLOYMENT.—

(1) IN GENERAL.—The Attorney General shall forward deploy existing border patrol agents in those areas of the border identified as areas of high illegal entry into the United States in order to provide a uniform and visible deterrent to illegal entry on a continuing basis. The previous sentence shall not apply to border patrol agents located at checkpoints.

(2) PRESERVATION OF LAW ENFORCEMENT FUNCTIONS AND CAPABILITIES IN INTERIOR STATES.—The Attorney General shall, when deploying border patrol personnel from interior stations to border stations, coordinate with, and act in conjunction with, State and local law enforcement agencies to ensure that such deployment does not degrade or compromise the law enforcement capabilities and functions currently performed at interior border patrol stations.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on—

(A) the progress and effectiveness of the forward deployment under paragraph (1); and

(B) the measures taken to comply with paragraph (2).

SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States.

(b) CONSTRUCTION OF FENCING AND ROAD IMPROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO, CALIFORNIA.—

(1) IN GENERAL.—In carrying out subsection (a), the Attorney General shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.

(2) PROMPT ACQUISITION OF NECESSARY EASEMENTS.—The Attorney General, acting under the authority conferred in section 103(b) of the Immigration and Nationality Act (as inserted by subsection (d)), shall promptly acquire such easements as may be necessary to carry out this subsection and shall commence construction of fences immediately following such acquisition (or conclusion of portions thereof).

(3) SAFETY FEATURES.—The Attorney General, while constructing the additional fencing under this subsection, shall incorporate such safety features into the design of the fence system as are necessary to ensure the well-being of border patrol agents deployed within or in near proximity to the system.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection not to exceed $12,000,000. Amounts appropriated under this paragraph are authorized to remain available until expended.

(c) WAIVER.—The provisions of the Endangered Species Act of 1973 and the National Environmental Policy Act of 1969 are waived to the extent the Attorney General determines necessary to ensure expeditious construction of the barriers and roads under this section.

(d) LAND ACQUISITION AUTHORITY.—

(1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(A) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(B) by inserting after subsection (a) the following:

"(b)(1) The Attorney General may contract for or buy any interest in land, including temporary use rights, adjacent to or in the vicinity of an international land border when the Attorney General deems the land essential to control and guard the boundaries and borders of the United States against any violation of this Act.

"(2) The Attorney General may contract for or buy any interest in land identified pursuant to paragraph (1) as soon as the lawful owner of that interest fixes a price for it and the Attorney General considers that price to be reasonable.

"(3) When the Attorney General and the lawful owner of an interest identified pursuant to paragraph (1) are unable to agree upon a reasonable price, the Attorney General may commence condemnation proceedings pursuant to the Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

"(4) The Attorney General may accept for the United States a gift of any interest in land identified pursuant to paragraph (1).".

(2) CONFORMING AMENDMENT.—Section 103(e) (as so redesignated by paragraph (1)(A)) is amended by striking "subsection (c)" and inserting "subsection (d)".

SEC. 103. IMPROVED BORDER EQUIPMENT AND TECHNOLOGY.

The Attorney General is authorized to acquire and use, for the purpose of detection, interdiction, and reduction of illegal immigration into the United States, any Federal equipment (including fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer by any other agency of the Federal Government upon request of the Attorney General.

SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.

(a) IN GENERAL.—Section 101(a)(6) (8 U.S.C. 1101(a)(6)) is amended by adding at the end the following: "Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.".

(b) EFFECTIVE DATES.—

(1) CLAUSE A.—Clause (A) of the sentence added by the amendment made by subsection (a) shall apply to documents issued on or after 18 months after the date of the enactment of this Act.

(2) CLAUSE B.—Clause (B) of such sentence shall apply to cards presented on or after 3 years after the date of the enactment of this Act.

SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

"(1) at least $50 and not more than $250 for each such entry (or attempted entry); or

"(2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to illegal entries or attempts to enter occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

SEC. 106. HIRING AND TRAINING STANDARDS.

(a) REVIEW OF HIRING STANDARDS.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall complete a review of all prescreening and hiring standards used by the Commissioner of Immigration and Naturalization, and, where necessary, revise such standards to ensure that they are consistent with relevant standards of professionalism.

(b) CERTIFICATION.—At the conclusion of each of fiscal years 1997, 1998, 1999, 2000, and 2001, the Attorney General shall certify in writing to

the Committees on the Judiciary of the House of Representatives and of the Senate that all personnel hired by the Commissioner of Immigration and Naturalization for such fiscal year were hired pursuant to the appropriate standards, as revised under subsection (a).

(c) REVIEW OF TRAINING STANDARDS.—

(1) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall complete a review of the sufficiency of all training standards used by the Commissioner of Immigration and Naturalization.

(2) REPORT.—

(A) IN GENERAL.—Not later than 90 days after the completion of the review under paragraph (1), the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the review, including—

(i) a description of the status of efforts to update and improve training throughout the Immigration and Naturalization Service; and

(ii) an estimate of when such efforts are expected to be completed.

(B) AREAS REQUIRING FUTURE REVIEW.—The report shall disclose those areas of training that the Attorney General determines require further review in the future.

SEC. 107. REPORT ON BORDER STRATEGY.

(a) EVALUATION OF STRATEGY.—The Comptroller General of the United States shall track, monitor, and evaluate the Attorney General's strategy to deter illegal entry in the United States to determine the efficacy of such strategy.

(b) COOPERATION.—The Attorney General, the Secretary of State, and the Secretary of Defense shall cooperate with the Comptroller General of the United States in carrying out subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the Attorney General's strategy has been effective in reducing illegal entry. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry and recommendations to improve and increase border security at the border and ports of entry.

SEC. 108. CRIMINAL PENALTIES FOR HIGH SPEED FLIGHTS FROM IMMIGRATION CHECKPOINTS.

(a) FINDINGS.—The Congress finds as follows:

(1) Immigration checkpoints are an important component of the national strategy to prevent illegal immigration.

(2) Individuals fleeing immigration checkpoints and leading law enforcement officials on high speed vehicle chases endanger law enforcement officers, innocent bystanders, and the fleeing individuals themselves.

(3) The pursuit of suspects fleeing immigration checkpoints is complicated by overlapping jurisdiction among Federal, State, and local law enforcement officers.

(b) HIGH SPEED FLIGHT FROM IMMIGRATION CHECKPOINTS.—

(1) IN GENERAL.—Chapter 35 of title 18, United States Code, is amended by adding at the end the following:

"§758. High speed flight from immigration checkpoint

"Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency, in a motor vehicle and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be fined under this title, imprisoned not more than five years, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 757 the following:

"758. High speed flight from immigration checkpoint.".

(c) GROUNDS FOR DEPORTATION.—Section 241(a)(2)(A) (8 U.S.C. 1251(a)(2)(A)) is amended—

(1) by redesignating clause (iv) as clause (v);

(2) by inserting after clause (iii) the following:

"(iv) HIGH SPEED FLIGHT.—Any alien who is convicted of a violation of section 758 of title 18, United States Code, (relating to high speed flight from an immigration checkpoint) is deportable."; and

(3) in clause (v) (as so redesignated by paragraph (1)), by striking "and (iii)" and inserting "(iii), and (iv)".

SEC. 109. JOINT STUDY OF AUTOMATED DATA COLLECTION.

(a) STUDY.—The Attorney General, together with the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, and appropriate representatives of the air transport industry, shall jointly undertake a study to develop a plan for making the transition to automated data collection at ports of entry.

(b) REPORT.—Nine months after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the outcome of the joint initiative under subsection (a), noting specific areas of agreement and disagreement, and recommending further steps to be taken, including any suggestions for legislation.

SEC. 110. AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) SYSTEM.—Not later than 2 years after the date of the enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) REPORT.—

(1) DEADLINE.—Not later than December 31 of each year following the development of the system under subsection (a), the Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and of the Senate on such system.

(2) INFORMATION.—The report shall include the following information:

(A) The number of departure records collected, with an accounting by country of nationality of the departing alien.

(B) The number of departure records that were successfully matched to records of the alien's prior arrival in the United States, with an accounting by the alien's country of nationality and by the alien's classification as an immigrant or nonimmigrant.

(C) The number of aliens who arrived as nonimmigrants, or as a visitor under the visa waiver program under section 217 of the Immigration and Nationality Act, for whom no matching departure record has been obtained through the system or through other means as of the end of the alien's authorized period of stay, with an accounting by the alien's country of nationality and date of arrival in the United States.

(c) USE OF INFORMATION ON OVERSTAYS.—Information regarding aliens who have remained in the United States beyond their authorized period of stay identified through the system shall be integrated into appropriate data bases of the Immigration and Naturalization Service and the Department of State, including those used at ports of entry and at consular offices.

SEC. 111. SUBMISSION OF FINAL PLAN ON REALIGNMENT OF BORDER PATROL POSITIONS FROM INTERIOR STATIONS.

Not later than November 30, 1996, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a final plan regarding the redeployment of border patrol personnel from interior locations to the front lines of the border. The final plan shall be consistent with the following:

(1) The preliminary plan regarding such redeployment submitted by the Attorney General on May 17, 1996, to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(2) The direction regarding such redeployment provided in the joint explanatory statement of the committee of conference in the conference report to accompany the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104-134).

SEC. 112. NATIONWIDE FINGERPRINTING OF APPREHENDED ALIENS.

There are authorized to be appropriated such additional sums as may be necessary to ensure that the "IDENT" program (operated by the Immigration and Naturalization Service) is expanded to apply to illegal or criminal aliens apprehended nationwide.

Subtitle B—Facilitation of Legal Entry

SEC. 121. LAND BORDER INSPECTORS.

In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and the Secretary of the Treasury each shall increase, by approximately equal numbers in each of fiscal years 1997 and 1998, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or whose construction has been authorized by the Congress, except such low-use lanes as the Attorney General may designate.

SEC. 122. LAND BORDER INSPECTION AND AUTOMATED PERMIT PILOT PROJECTS.

(a) EXTENSION OF LAND BORDER INSPECTION PROJECT AUTHORITY; ESTABLISHMENT OF AUTOMATED PERMIT PILOT PROJECTS.—Section 286(q) is amended—

(1) by striking the matter preceding paragraph (2) and inserting the following:

"(q) LAND BORDER INSPECTION FEE ACCOUNT.—(1)(A)(i) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, not more than 6 projects under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such projects may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

"(ii) The program authorized in this subparagraph shall terminate on September 30, 2000, unless further authorized by an Act of Congress.

"(iii) This subparagraph shall take effect, with respect to any project described in clause (1) that was not authorized to be commenced before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of such project.

"(iv) The Attorney General shall prepare and submit on a quarterly basis, until September 30,

2000, a status report on each land border inspection project implemented under this subparagraph.

"(B) The Attorney General, in consultation with the Secretary of the Treasury, may conduct pilot projects to demonstrate the use of designated ports of entry after working hours through the use of card reading machines or other appropriate technology."; and

(2) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1994 (Public Law 103–121, 107 Stat. 1161) is amended by striking the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses".

SEC. 123. PREINSPECTION AT FOREIGN AIRPORTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 235 the following:

"PREINSPECTION AT FOREIGN AIRPORTS

"SEC. 235A. (a) ESTABLISHMENT OF PREINSPECTION STATIONS.—

"(1) NEW STATIONS.—Subject to paragraph (5), not later than October 31, 1998, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 5 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of inadmissible alien passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established prior to the date of the enactment of such Act.

"(2) REPORT.—Not later than October 31, 1998, the Attorney General shall report to the Committees on the Judiciary of the House of Representatives and of the Senate on the implementation of paragraph (1).

"(3) DATA COLLECTION.—Not later than November 1, 1997, and each subsequent November 1, the Attorney General shall compile data identifying—

"(A) the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal years;

"(B) the number and nationality of such aliens arriving from each such foreign airport; and

"(C) the primary routes such aliens followed from their country of origin to the United States.

"(4) ADDITIONAL STATIONS.—Subject to paragraph (5), not later than October 31, 2000, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 5 additional foreign airports which the Attorney General, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively reduce the number of aliens who arrive from abroad by air at points of entry within the United States who are inadmissible to the United States. Such preinspection stations shall be in addition to those established prior to the date of the enactment of such Act or pursuant to paragraph (1).

"(5) CONDITIONS.—Prior to the establishment of a preinspection station, the Attorney General, in consultation with the Secretary of State, shall ensure that—

"(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection;

"(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety; and

"(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951), or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967), or that an alien in the country otherwise has recourse to avenues of protection from return to persecution.

"(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—The Attorney General shall assign additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports which, based on the records maintained pursuant to subsection (a)(3), served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station exists.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 235 the following:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 124. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(A) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel regarding such detection" after "United States"; and

(B) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.".

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to expenses incurred during or after fiscal year 1997.

(b) COMPLIANCE WITH DETECTION REGULATIONS.—

(1) IN GENERAL.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(2) DEADLINE.—The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by paragraph (1), not later than 90 days after the date of the enactment of this Act.

SEC. 125. PRECLEARANCE AUTHORITY.

Section 103(a) of the Immigration and Nationality Act (8 U.S.C. 1103(a)) is amended by adding at the end the following:

"After consultation with the Secretary of State, the Attorney General may authorize officers of a foreign country to be stationed at preclearance facilities in the United States for the purpose of ensuring that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Those officers may exercise such authority and perform such duties as United States immigration officers are authorized to exercise and perform in that foreign country under reciprocal agreement, and they shall enjoy such reasonable privileges and immunities necessary for the performance of their duties as the government of their country extends to United States immigration officers.".

Subtitle C—Interior Enforcement

SEC. 131. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN NUMBER OF CERTAIN INVESTIGATORS.

(a) AUTHORIZATION.—There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act by a number equivalent to 300 full-time active-duty investigators in each of fiscal years 1997, 1998, and 1999.

(b) ALLOCATION OF INVESTIGATORS.—At least one-half of the investigators hired with funds made available under subsection (a) shall be assigned to investigate potential violations of section 274A of the Immigration and Nationality Act.

(c) LIMITATION ON OVERTIME.—None of the funds made available under subsection (a) shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for any fiscal year.

SEC. 132. AUTHORIZATION OF APPROPRIATIONS FOR INCREASE IN NUMBER OF INVESTIGATORS OF VISA OVERSTAYERS.

There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase the number of investigators and support personnel to investigate visa overstayers by a number equivalent to 300 full-time active-duty investigators in fiscal year 1997.

SEC. 133. ACCEPTANCE OF STATE SERVICES TO CARRY OUT IMMIGRATION ENFORCEMENT.

Section 287 (8 U.S.C. 1357) is amended by adding at the end the following:

"(g)(1) Notwithstanding section 1342 of title 31, United States Code, the Attorney General may enter into a written agreement with a State, or any political subdivision of a State, pursuant to which an officer or employee of the State or subdivision, who is determined by the Attorney General to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States (including the transportation of such aliens across State lines to detention centers), may carry out such function at the expense of the State or political subdivision and to the extent consistent with State and local law.

"(2) An agreement under this subsection shall require that an officer or employee of a State or political subdivision of a State performing a function under the agreement shall have knowledge of, and adhere to, Federal law relating to the function, and shall contain a written certification that the officers or employees performing the function under the agreement have received adequate training regarding the enforcement of relevant Federal immigration laws.

"(3) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State shall be subject to the direction and supervision of the Attorney General.

"(4) In performing a function under this subsection, an officer or employee of a State or political subdivision of a State may use Federal property or facilities, as provided in a written agreement between the Attorney General and the State or subdivision.

"(5) With respect to each officer or employee of a State or political subdivision who is authorized to perform a function under this subsection, the specific powers and duties that may be, or are required to be, exercised or performed by the individual, the duration of the authority of the

individual, and the position of the agency of the Attorney General who is required to supervise and direct the individual, shall be set forth in a written agreement between the Attorney General and the State or political subdivision.

"(6) The Attorney General may not accept a service under this subsection if the service will be used to displace any Federal employee.

"(7) Except as provided in paragraph (8), an officer or employee of a State or political subdivision of a State performing functions under this subsection shall not be treated as a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, (relating to compensation for injury) and sections 2671 through 2680 of title 28, United States Code (relating to tort claims).

"(8) An officer or employee of a State or political subdivision of a State acting under color of authority under this subsection, or any agreement entered into under this subsection, shall be considered to be acting under color of Federal authority for purposes of determining the liability, and immunity from suit, of the officer or employee in a civil action brought under Federal or State law.

"(9) Nothing in this subsection shall be construed to require any State or political subdivision of a State to enter into an agreement with the Attorney General under this subsection.

"(10) Nothing in this subsection shall be construed to require an agreement under this subsection in order for any officer or employee of a State or political subdivision of a State—

"(A) to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States; or

"(B) otherwise to cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.".

SEC. 134. MINIMUM STATE INS PRESENCE.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103), as amended by section 102(e), is further amended by adding at the end the following:

"(f) The Attorney General shall allocate to each State not fewer than 10 full-time active duty agents of the Immigration and Naturalization Service to carry out the functions of the Service, in order to ensure the effective enforcement of this Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD

Subtitle A—Enhanced Enforcement and Penalties Against Alien Smuggling

SEC. 201. WIRETAP AUTHORITY FOR INVESTIGATIONS OF ALIEN SMUGGLING OR DOCUMENT FRAUD.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking "or section 1992 (relating to wrecking trains)" and inserting "section 1992 (relating to wrecking trains), a felony violation of section 1028 (relating to production of false identification documentation), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), section 1541 (relating to passport issuance without authority), section 1542 (relating to false statements in passport applications), section 1543 (relating to forgery or false use of passports), section 1544 (relating to misuse of passports), or section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" at the end of paragraph (l);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);".

SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN SMUGGLING.

Section 1961(1) of title 18, United States Code, as amended by section 433 of Public Law 104–132, is amended—

(1) by striking "if the act indictable under section 1028 was committed for the purpose of financial gain";

(2) by inserting "section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers)," after "section 1344 (relating to financial institution fraud),";

(3) by striking "if the act indictable under section 1542 was committed for the purpose of financial gain";

(4) by striking "if the act indictable under section 1543 was committed for the purpose of financial gain";

(5) by striking "if the act indictable under section 1544 was committed for the purpose of financial gain"; and

(6) by striking "if the act indictable under section 1546 was committed for the purpose of financial gain".

SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN SMUGGLING.

(a) COMMERCIAL ADVANTAGE.—Section 274(a)(1)(B)(i) (8 U.S.C. 1324(a)(1)(B)(i)) is amended by inserting "or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain" after "subparagraph (A)(i)".

(b) ADDITIONAL OFFENSES.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "or" at the end of clause (iii);

(B) by striking the comma at the end of clause (iv) and inserting "; or"; and

(C) by adding at the end the following new clause:

"(v)(I) engages in any conspiracy to commit any of the preceding acts, or

"(II) aids or abets the commission of any of the preceding acts,";

(2) in paragraph (1)(B)—

(A) in clause (i), by inserting "or (v)(I)" after "(A)(i)";

(B) in clause (ii), by striking "or (iv)" and inserting "(iv), or (v)(II)";

(C) in clause (iii), by striking "or (iv)" and inserting "(iv), or (v)"; and

(D) in clause (iv), by striking "or (iv)" and inserting "(iv), or (v)";

(3) in paragraph (2)(B), by striking "be fined" and all that follows and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years."; and

(4) by adding at the end the following new paragraph:

"(3)(A) Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

"(B) An alien described in this subparagraph is an alien who—

"(i) is an unauthorized alien (as defined in section 274A(h)(3)), and

"(ii) has been brought into the United States in violation of this subsection.".

(c) SMUGGLING OF ALIENS WHO WILL COMMIT CRIMES.—Clause (i) of section 274(a)(2)(B) (8 U.S.C. 1324(a)(2)(B)) is amended to read as follows:

"(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,".

(d) APPLYING CERTAIN PENALTIES ON A PER ALIEN BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is amended by striking "for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved" and inserting "for each alien in respect to whom a violation of this paragraph occurs".

(e) SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of offenses related to smuggling, transporting, harboring, or inducing aliens in violation of section 274(a) (1)(A) or (2) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A), (2)(B)) in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses described in paragraph (1)—

(A) increase the base offense level for such offenses at least 3 offense levels above the applicable level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for the number of aliens involved (U.S.S.G. 2L1.1(b)(2)), and increase the sentencing enhancement by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underling conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(E) impose an appropriate sentencing enhancement on a defendant who, in the course of committing an offense described in this subsection—

(i) murders or otherwise causes death, bodily injury, or serious bodily injury to an individual;

(ii) uses or brandishes a firearm or other dangerous weapon; or

(iii) engages in conduct that consciously or recklessly places another in serious danger of death or serious bodily injury;

(F) consider whether a downward adjustment is appropriate if the offense is a first offense and involves the smuggling only of the alien's spouse or child; and

(G) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.

(a) IN GENERAL.—The number of Assistant United States Attorneys employed by the Department of Justice for the fiscal year 1997 shall be increased by at least 25 above the number of Assistant United States Attorneys that were authorized to be employed as of September 30, 1996.

(b) ASSIGNMENT.—Individuals employed to fill the additional positions described in subsection (a) shall prosecute persons who bring into the United States or harbor illegal aliens or violate other criminal statutes involving illegal aliens.

SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.

(a) IN GENERAL.—Title II is amended by adding at the end the following new section:

"UNDERCOVER INVESTIGATION AUTHORITY

"SEC. 294. (a) IN GENERAL.—With respect to any undercover investigative operation of the Service which is necessary for the detection and prosecution of crimes against the United States—

"(1) sums appropriated for the Service may be used for leasing space within the United States and the territories and possessions of the United States without regard to the following provisions of law:

"(A) section 3679(a) of the Revised Statutes (31 U.S.C. 1341),

"(B) section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)),

"(C) section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255),

"(D) the third undesignated paragraph under the heading 'Miscellaneous' of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

"(E) section 3648 of the Revised Statutes (31 U.S.C. 3324),

"(F) section 3741 of the Revised Statutes (41 U.S.C. 22), and

"(G) subsections (a) and (c) of section 304 of the Federal Property and Administrative Services Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c));

"(2) sums appropriated for the Service may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to the provisions of section 304 of the Government Corporation Control Act (31 U.S.C. 9102);

"(3) sums appropriated for the Service, and the proceeds from the undercover operation, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and of section 3639 of the Revised Statutes (31 U.S.C. 3302); and

"(4) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3617 of the Revised Statutes (31 U.S.C. 3302).

The authority set forth in this subsection may be exercised only upon written certification of the Commissioner, in consultation with the Deputy Attorney General, that any action authorized by paragraph (1), (2), (3), or (4) is necessary for the conduct of the undercover operation.

"(b) DISPOSITION OF PROCEEDS NO LONGER REQUIRED.—As soon as practicable after the proceeds from an undercover investigative operation, carried out under paragraphs (3) and (4) of subsection (a), are no longer necessary for the conduct of the operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(c) DISPOSITION OF CERTAIN CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or Commissioner's designee determines practicable, shall report the circumstances to the Attorney General, the Director of the Office of Management and Budget, and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(d) FINANCIAL AUDITS.—The Service shall conduct detailed financial audits of closed undercover operations on a quarterly basis and shall report the results of the audits in writing to the Deputy Attorney General.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 293 the following:

"Sec. 294. Undercover investigation authority.".

Subtitle B—Deterrence of Document Fraud

SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDULENT USE OF GOVERNMENT-ISSUED DOCUMENTS.

(a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.—(1) Section 1028(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting "except as provided in paragraphs (3) and (4)," after "(1)" and by striking "five years" and inserting "15 years";

(B) in paragraph (2), by inserting "except as provided in paragraphs (3) and (4)," after "(2)" and by striking "and" at the end;

(C) by redesignating paragraph (3) as paragraph (5); and

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title); and".

(2) Sections 1425 through 1427, sections 1541 through 1544, and section 1546(a) of title 18, United States Code, are each amended by striking "imprisoned not more" and all that follows through "years" each place it appears and inserting the following: "imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime), or 15 years (in the case of any other offense)".

(b) CHANGES TO THE SENTENCING LEVELS.—

(1) IN GENERAL.—Pursuant to the Commission's authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for offenders convicted of violating, or conspiring to violate, sections 1028(b)(1), 1425 through 1427, 1541 through 1544, and 1546(a) of title 18, United States Code, in accordance with this subsection.

(2) REQUIREMENTS.—In carrying out this subsection, the Commission shall, with respect to the offenses referred to in paragraph (1)—

(A) increase the base offense level for such offenses at least 2 offense levels above the level in effect on the date of the enactment of this Act;

(B) review the sentencing enhancement for number of documents or passports involved (U.S.S.G. 2L2.1(b)(2)), and increase the upward adjustment by at least 50 percent above the applicable enhancement in effect on the date of the enactment of this Act;

(C) impose an appropriate sentencing enhancement upon an offender with 1 prior felony conviction arising out of a separate and prior prosecution for an offense that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category;

(D) impose an additional appropriate sentencing enhancement upon an offender with 2 or more prior felony convictions arising out of separate and prior prosecutions for offenses that involved the same or similar underlying conduct as the current offense, to be applied in addition to any sentencing enhancement that would otherwise apply pursuant to the calculation of the defendant's criminal history category; and

(E) consider whether any other aggravating or mitigating circumstances warrant upward or downward sentencing adjustments.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 212. NEW DOCUMENT FRAUD OFFENSES; NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) ACTIVITIES PROHIBITED.—Section 274C(a) (8 U.S.C. 1324c(a)) is amended—

(1) in paragraph (1), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(2) in paragraph (2), by inserting before the comma at the end the following: "or to obtain a benefit under this Act";

(3) in paragraph (3)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the comma at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking "or" at the end;

(4) in paragraph (4)—

(A) by inserting "or with respect to" after "issued to";

(B) by adding before the period at the end the following: "or obtaining a benefit under this Act"; and

(C) by striking the period at the end and inserting ", or"; and

(5) by adding at the end the following new paragraphs:

"(5) to prepare, file, or assist another in preparing or filing, any application for benefits under this Act, or any document required under this Act, or any document submitted in connection with such application or document, with knowledge or in reckless disregard of the fact that such application or document was falsely

made or, in whole or in part, does not relate to the person on whose behalf it was or is being submitted, or

"(6)(A) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States, and (B) to fail to present such document to an immigration officer upon arrival at a United States port of entry.".

(b) DEFINITION OF FALSELY MAKE.—Section 274C (8 U.S.C. 1324c), as amended by section 213, is further amended by adding at the end the following new subsection:

"(f) FALSELY MAKE.—For purposes of this section, the term 'falsely make' means to prepare or provide an application or document, with knowledge or in reckless disregard of the fact that the application or document contains a false, fictitious, or fraudulent statement or material representation, or has no basis in law or fact, or otherwise fails to state a fact which is material to the purpose for which it was submitted.".

(c) CONFORMING AMENDMENT.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is amended by striking "each document used, accepted, or created and each instance of use, acceptance, or creation" each place it appears and inserting "each document that is the subject of a violation under subsection (a)".

(d) WAIVER BY ATTORNEY GENERAL.—Section 274C(d) (8 U.S.C. 1324c(d)) is amended by adding at the end the following new paragraph:

"(7) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the penalties imposed by this section with respect to an alien who knowingly violates subsection (a)(6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).".

(e) EFFECTIVE DATE.—Section 274C(f) of the Immigration and Nationality Act, as added by subsection (b), applies to the preparation of applications before, on, or after the date of the enactment of this Act.

SEC. 213. NEW CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FALSE APPLICATION FOR IMMIGRATION BENEFITS.

Section 274C (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

"(e) CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in any matter within the jurisdiction of the Service, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in subsection (f)) for immigration benefits, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both, and prohibited from preparing or assisting in preparing, whether or not for a fee or other remuneration, any other such application.

"(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, whether or not for a fee or other remuneration and regardless of whether in any matter within the jurisdiction of the Service, shall be fined in accordance with title 18, United States Code, imprisoned for not more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.".

SEC. 214. CRIMINAL PENALTY FOR KNOWINGLY PRESENTING DOCUMENT WHICH FAILS TO CONTAIN REASONABLE BASIS IN LAW OR FACT.

The fourth paragraph of section 1546(a) of title 18, United States Code, is amended by striking "containing any such false statement" and inserting "which contains any such false statement or which fails to contain any reasonable basis in law or fact".

SEC. 215. CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP.

Section 1015 of title 18, United States Code, is amended—

(1) by striking the dash at the end of paragraph (d) and inserting "; or", and

(2) by inserting after paragraph (d) the following:

"(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal or State benefit or service, or to engage unlawfully in employment in the United States; or

"(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—".

SEC. 216. CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 610 the following:

"§611. Voting by aliens

"(a) It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

"(1) the election is held partly for some other purpose;

"(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

"(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

"(b) Any person who violates this section shall be fined under this title, imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended by inserting after the item relating to section 610 the following new item:

"611. Voting by aliens.".

SEC. 217. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982(a) of title 18, United States Code, is amended by inserting after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States, regardless of any provision of State law—

"(i) any conveyance, including any vessel, vehicle, or aircraft used in the commission of a violation of, or a conspiracy to violate, subsection (a); and

"(ii) any property real or personal—

"(I) that constitutes, or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title; or

"(II) that is used to facilitate, or is intended to be used to facilitate, the commission of a violation of, or a conspiracy to violate, subsection (a), section 274A(a)(1) or 274A(a)(2) of the Immigration and Nationality Act, or section 1028, 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of this title.

The court, in imposing sentence on such person, shall order that the person forfeit to the United States all property described in this subparagraph.

"(B) The criminal forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related administrative or judicial proceeding, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsections (a) and (d) of such section 413.".

SEC. 218. CRIMINAL PENALTIES FOR INVOLUNTARY SERVITUDE.

(a) AMENDMENTS TO TITLE 18.—Sections 1581, 1583, 1584, and 1588 of title 18, United States Code, are amended by striking "five" each place it appears and inserting "10".

(b) REVIEW OF SENTENCING GUIDELINES.—The United States Sentencing Commission shall ascertain whether there exists an unwarranted disparity—

(1) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses in effect on the date of the enactment of this Act; and

(2) between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for alien smuggling offenses in effect on the date of the enactment of this Act and after the amendment made by subsection (a).

(c) AMENDMENT OF SENTENCING GUIDELINES.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review its guidelines on sentencing for peonage, involuntary servitude, and slave trade offenses under sections 1581 through 1588 of title 18, United States Code, and shall amend such guidelines as necessary to—

(A) reduce or eliminate any unwarranted disparity found under subsection (b) that exists between the sentences for peonage, involuntary servitude, and slave trade offenses, and the sentences for kidnapping offenses and alien smuggling offenses;

(B) ensure that the applicable guidelines for defendants convicted of peonage, involuntary servitude, and slave trade offenses are sufficiently stringent to deter such offenses and adequately reflect the heinous nature of such offenses; and

(C) ensure that the guidelines reflect the general appropriateness of enhanced sentences for defendants whose peonage, involuntary servitude, or slave trade offenses involve—

(i) a large number of victims;

(ii) the use or threatened use of a dangerous weapon; or

(iii) a prolonged period of peonage or involuntary servitude.

(2) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act.

SEC. 219. ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.

Section 274 (8 U.S.C. 1324) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or

otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.".

SEC. 220. SUBPOENA AUTHORITY IN DOCUMENT FRAUD ENFORCEMENT.

Section 274C(d)(1) (8 U.S.C. 1324c(d)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

SEC. 301. TREATING PERSONS PRESENT IN THE UNITED STATES WITHOUT AUTHORIZATION AS NOT ADMITTED.

(a) "ADMISSION" DEFINED.—Paragraph (13) of section 101(a) (8 U.S.C. 1101(a)) is amended to read as follows:

"(13)(A) The terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

"(B) An alien who is paroled under section 212(d)(5) or permitted to land temporarily as an alien crewman shall not be considered to have been admitted.

"(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

"(i) has abandoned or relinquished that status,

"(ii) has been absent from the United States for a continuous period in excess of 180 days,

"(iii) has engaged in illegal activity after having departed the United States,

"(iv) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this Act and extradition proceedings,

"(v) has committed an offense identified in section 212(a)(2), unless since such offense the alien has been granted relief under section 212(h) or 240A(a), or

"(vi) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.".

(b) INADMISSIBILITY OF ALIENS PREVIOUSLY REMOVED AND UNLAWFULLY PRESENT.—

(1) IN GENERAL.—Section 212(a) (8 U.S.C. 1182(a)) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) ALIENS PREVIOUSLY REMOVED.—

"(A) CERTAIN ALIENS PREVIOUSLY REMOVED.—

"(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(ii) OTHER ALIENS.—Any alien not described in clause (i) who—

"(I) has been ordered removed under section 240 or any other provision of law, or

"(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(iii) EXCEPTION.—Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

"(B) ALIENS UNLAWFULLY PRESENT.—

"(i) IN GENERAL.—Any alien (other than an alien lawfully admitted for permanent residence) who—

"(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 244(e)) prior to the commencement of proceedings under section 235(b)(1) or section 240, and again seeks admission within 3 years of the date of such alien's departure or removal, or

"(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States,

is inadmissible.

"(ii) CONSTRUCTION OF UNLAWFUL PRESENCE.—For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.

"(iii) EXCEPTIONS.—

"(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.

"(III) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(IV) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States' in subclause (III) of that paragraph.

"(iv) TOLLING FOR GOOD CAUSE.—In the case of an alien who—

"(I) has been lawfully admitted or paroled into the United States,

"(II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General, and

"(III) has not been employed without authorization in the United States before or during the pendency of such application,

the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

"(v) WAIVER.—The Attorney General has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.

"(C) ALIENS UNLAWFULLY PRESENT AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

"(i) IN GENERAL.—Any alien who—

"(I) has been unlawfully present in the United States for an aggregate period of more than 1 year, or

"(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembarkation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.".

(2) LIMITATION ON CHANGE OF STATUS.—Section 248 (8 U.S.C. 1258) is amended by inserting "and who is not inadmissible under section 212(a)(9)(B)(i) (or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v))" after "maintain that status".

(3) TREATMENT OF UNLAWFUL PRESENCE BEFORE EFFECTIVE DATE.—In applying section 212(a)(9)(B) of the Immigration and Nationality Act, as inserted by paragraph (1), no period before the title III-A effective date shall be included in a period of unlawful presence in the United States.

(c) REVISION TO GROUND OF INADMISSIBILITY FOR ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

(1) IN GENERAL.—Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C. 1182(a)(6)) are amended to read as follows:

"(A) ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

"(i) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

"(ii) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who demonstrates that—

"(I) the alien qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1),

"(II)(a) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (b) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty, and

"(III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

"(B) FAILURE TO ATTEND REMOVAL PROCEEDING.—Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.".

(2) TRANSITION FOR BATTERED SPOUSE OR CHILD PROVISION.—The requirements of subclauses (II) and (III) of section 212(a)(6)(A)(ii) of the Immigration and Nationality Act, as inserted by paragraph (1), shall not apply to an alien who demonstrates that the alien first arrived in the United States before the title III-A effective date (described in section 309(a)).

(d) ADJUSTMENT IN GROUNDS FOR DEPORTATION.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "in the United States" and inserting "in and admitted to the United States";

(2) in subsection (a)(1), by striking "EXCLUDABLE" each place it appears and inserting "INADMISSIBLE";

(3) in subsection (a)(1)(A), by striking "excludable" and inserting "inadmissible"; and

(4) by amending subparagraph (B) of subsection (a)(1) to read as follows:

"(B) PRESENT IN VIOLATION OF LAW.—Any alien who is present in the United States in violation of this Act or any other law of the United States is deportable.

SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING (REVISED SECTION 235).

(a) IN GENERAL.—Section 235 (8 U.S.C. 1225) is amended to read as follows:

"INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

"SEC. 235. (a) INSPECTION.—

"(1) ALIENS TREATED AS APPLICANTS FOR ADMISSION.—An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this Act an applicant for admission.

"(2) STOWAWAYS.—An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.

"(3) INSPECTION.—All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

"(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

"(5) STATEMENTS.—An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

"(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

"(1) INSPECTION OF ALIENS ARRIVING IN THE UNITED STATES AND CERTAIN OTHER ALIENS WHO HAVE NOT BEEN ADMITTED OR PAROLED.—

"(A) SCREENING.—

"(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution.

"(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

"(iii) APPLICATION TO CERTAIN OTHER ALIENS.—

"(I) IN GENERAL.—The Attorney General may apply clauses (i) and (ii) of this subparagraph to any or all aliens described in subclause (II) as designated by the Attorney General. Such designation shall be in the sole and unreviewable discretion of the Attorney General and may be modified at any time.

"(II) ALIENS DESCRIBED.—An alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.

"(B) ASYLUM INTERVIEWS.—

"(i) CONDUCT BY ASYLUM OFFICERS.—An asylum officer shall conduct interviews of aliens referred under subparagraph (A)(ii), either at a port of entry or at such other place designated by the Attorney General.

"(ii) REFERRAL OF CERTAIN ALIENS.—If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.

"(iii) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

"(I) IN GENERAL.—Subject to subclause (III), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.

"(II) RECORD OF DETERMINATION.—The officer shall prepare a written record of a determination under subclause (I). Such record shall include a summary of the material facts as stated by the applicant, such additional facts (if any) relied upon by the officer, and the officer's analysis of why, in the light of such facts, the alien has not established a credible fear of persecution. A copy of the officer's interview notes shall be attached to the written summary.

"(III) REVIEW OF DETERMINATION.—The Attorney General shall provide by regulation and upon the alien's request for prompt review by an immigration judge of a determination under subclause (I) that the alien does not have a credible fear of persecution. Such review shall include an opportunity for the alien to be heard and questioned by the immigration judge, either in person or by telephonic or video connection. Review shall be concluded as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days after the date of the determination under subclause (I).

"(IV) MANDATORY DETENTION.—Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.

"(iv) INFORMATION ABOUT INTERVIEWS.—The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process.

"(v) CREDIBLE FEAR OF PERSECUTION DEFINED.—For purposes of this subparagraph, the term 'credible fear of persecution' means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(C) LIMITATION ON ADMINISTRATIVE REVIEW.—Except as provided in subparagraph (B)(iii)(III), a removal order entered in accordance with subparagraph (A)(i) or (B)(iii)(I) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence, to have been admitted as a refugee under section 207, or to have been granted asylum under section 208.

"(D) LIMIT ON COLLATERAL ATTACKS.—In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii).

"(E) ASYLUM OFFICER DEFINED.—As used in this paragraph, the term 'asylum officer' means an immigration officer who—

"(i) has had professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of applications under section 208, and

"(ii) is supervised by an officer who meets the condition described in clause (i) and has had substantial experience adjudicating asylum applications.

"(F) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations and who arrives by aircraft at a port of entry.

"(2) INSPECTION OF OTHER ALIENS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

"(i) who is a crewman,

"(ii) to whom paragraph (1) applies, or

"(iii) who is a stowaway.

"(C) TREATMENT OF ALIENS ARRIVING FROM CONTIGUOUS TERRITORY.—In the case of an alien described in subparagraph (A) who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States, the Attorney General may return the alien to that territory pending a proceeding under section 240.

"(3) CHALLENGE OF DECISION.—The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a proceeding under section 240.

"(c) REMOVAL OF ALIENS INADMISSIBLE ON SECURITY AND RELATED GROUNDS.—

"(1) REMOVAL WITHOUT FURTHER HEARING.—If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall—

"(A) order the alien removed, subject to review under paragraph (2);

"(B) report the order of removal to the Attorney General; and

"(C) not conduct any further inquiry or hearing until ordered by the Attorney General.

"(2) REVIEW OF ORDER.—(A) The Attorney General shall review orders issued under paragraph (1).

"(B) If the Attorney General—

"(i) is satisfied on the basis of confidential information that the alien is inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), and

"(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security,

the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

"(C) If the Attorney General does not order the removal of the alien under subparagraph (B), the Attorney General shall specify the further inquiry or hearing that shall be conducted in the case.

"(3) SUBMISSION OF STATEMENT AND INFORMATION.—The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

"(d) AUTHORITY RELATING TO INSPECTIONS.—

"(1) AUTHORITY TO SEARCH CONVEYANCES.—Immigration officers are authorized to board and search any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States.

"(2) AUTHORITY TO ORDER DETENTION AND DELIVERY OF ARRIVING ALIENS.—Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States—

"(A) to detain the alien on the vessel or at the airport of arrival, and

"(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

"(3) ADMINISTRATION OF OATH AND CONSIDERATION OF EVIDENCE.—The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

"(4) SUBPOENA AUTHORITY.—(A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

"(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.".

(b) GAO STUDY ON OPERATION OF EXPEDITED REMOVAL PROCEDURES.—

(1) STUDY.—The Comptroller General shall conduct a study on the implementation of the expedited removal procedures under section 235(b)(1) of the Immigration and Nationality Act, as amended by subsection (a). The study shall examine—

(A) the effectiveness of such procedures in deterring illegal entry,

(B) the detention and adjudication resources saved as a result of the procedures,

(C) the administrative and other costs expended to comply with the provision,

(D) the effectiveness of such procedures in processing asylum claims by undocumented aliens who assert a fear of persecution, including the accuracy of credible fear determinations, and

(E) the cooperation of other countries and air carriers in accepting and returning aliens removed under such procedures.

(2) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the study conducted under paragraph (1).

SEC. 303. APPREHENSION AND DETENTION OF ALIENS (REVISED SECTION 236).

(a) IN GENERAL.—Section 236 (8 U.S.C. 1226) is amended to read as follows:

"APPREHENSION AND DETENTION OF ALIENS

"SEC. 236. (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

"(1) may continue to detain the arrested alien; and

"(2) may release the alien on—

"(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

"(B) conditional parole; but

"(3) may not provide the alien with work authorization (including an 'employment authorized' endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

"(b) REVOCATION OF BOND OR PAROLE.—The Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

"(c) DETENTION OF CRIMINAL ALIENS.—

"(1) CUSTODY.—The Attorney General shall take into custody any alien who—

"(A) is inadmissible by reason of having committed any offense covered in section 212(a)(2),

"(B) is deportable by reason of having committed any offense covered in section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D),

"(C) is deportable under section 237(a)(2)(A)(i) on the basis of an offense for which the alien has been sentence to a term of imprisonment of at least 1 year, or

"(D) is inadmissible under section 212(a)(3)(B) or deportable under section 237(a)(4)(B),

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

"(2) RELEASE.—The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides pursuant to section 3521 of title 18, United States Code, that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

"(d) IDENTIFICATION OF CRIMINAL ALIENS.—(1) The Attorney General shall devise and implement a system—

"(A) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

"(B) to designate and train officers and employees of the Service to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

"(C) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony, and indicates those who have been removed.

"(2) The record under paragraph (1)(C) shall be made available—

"(A) to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any alien who was previously ordered removed and is seeking to reenter the United States, and

"(B) to officials of the Department of State for use in its automated visa lookout system.

"(3) Upon the request of the governor or chief executive officer of any State, the Service shall provide assistance to State courts in the identification of aliens unlawfully present in the United States pending criminal prosecution.

"(e) JUDICIAL REVIEW.—The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall become effective on the title III-A effective date.

(2) NOTIFICATION REGARDING CUSTODY.—If the Attorney General, not later than 10 days after the date of the enactment of this Act, notifies in writing the Committees on the Judiciary of the House of Representatives and the Senate that there is insufficient detention space and Immigration and Naturalization Service personnel available to carry out section 236(c) of the Immigration and Nationality Act, as amended by subsection (a), or the amendments made by section 440(c) of Public Law 104–132, the provisions in paragraph (3) shall be in effect for a 1-year period beginning on the date of such notification, instead of such section or such amendments. The Attorney General may extend such 1-year period for an additional year if the Attorney General provides the same notice not later than 10 days before the end of the first 1-year period. After the end of such 1-year or 2-year periods, the provisions of such section 236(c) shall apply to individuals released after such periods.

(3) TRANSITION PERIOD CUSTODY RULES.—

(A) IN GENERAL.—During the period in which this paragraph is in effect pursuant to paragraph (2), the Attorney General shall take into custody any alien who—

(i) has been convicted of an aggravated felony (as defined under section 101(a)(43) of the Immigration and Nationality Act, as amended by section 321 of this Act),

(ii) is inadmissible by reason of having committed any offense covered in section 212(a)(2) of such Act,

(iii) is deportable by reason of having committed any offense covered in section 241(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of such Act (before redesignation under this subtitle), or

(iv) is inadmissible under section 212(a)(3)(B) of such Act or deportable under section 241(a)(4)(B) of such Act (before redesignation under this subtitle),

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

(B) RELEASE.—The Attorney General may release the alien only if the alien is an alien described in subparagraph (A)(ii) or (A)(iii) and—

(i) the alien was lawfully admitted to the United States and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding, or

(ii) the alien was not lawfully admitted to the United States, cannot be removed because the designated country of removal will not accept the alien, and satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.

SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS; VOLUNTARY DEPARTURE (REVISED AND NEW SECTIONS 239 TO 240C).

(a) IN GENERAL.—Chapter 4 of title II is amended—

(1) by redesignating section 239 (8 U.S.C. 1229) as section 234 and by moving such section to immediately follow section 233;

(2) by redesignating section 240 (8 U.S.C. 1230) as section 240C; and

(3) by inserting after section 238 the following new sections:

"INITIATION OF REMOVAL PROCEEDINGS

"SEC. 239. (a) NOTICE TO APPEAR.—

"(1) IN GENERAL.—In removal proceedings under section 240, written notice (in this section referred to as a 'notice to appear') shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and the alien will be provided (i) a period of time to secure counsel under subsection (b)(1) and (ii) a current list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 240.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under section 240(b)(5) of failure to provide address and telephone information pursuant to this subparagraph.

"(G)(i) The time and place at which the proceedings will be held.

"(ii) The consequences under section 240(b)(5) of the failure, except under exceptional circumstances, to appear at such proceedings.

"(2) NOTICE OF CHANGE IN TIME OR PLACE OF PROCEEDINGS.—

"(A) IN GENERAL.—In removal proceedings under section 240, in the case of any change or postponement in the time and place of such proceedings, subject to subparagraph (B) a written notice shall be given in person to the alien (or, if personal service is not practicable, through service by mail to the alien or to the alien's counsel of record, if any) specifying—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under section 240(b)(5) of failing, except under exceptional circumstances, to attend such proceedings.

"(B) EXCEPTION.—In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under paragraph (1)(F).

"(3) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 240, the hearing date shall not be scheduled earlier than 10 days after the service of the notice to appear, unless the alien requests in writing an earlier hearing date.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 240. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to prevent the Attorney General from proceeding against an alien pursuant to section 240 if the time period described in paragraph (1) has elapsed and the alien has failed to secure counsel.

"(c) SERVICE BY MAIL.—Service by mail under this section shall be sufficient if there is proof of attempted delivery to the last address provided by the alien in accordance with subsection (a)(1)(F).

"(d) PROMPT INITIATION OF REMOVAL.—(1) In the case of an alien who is convicted of an offense which makes the alien deportable, the Attorney General shall begin any removal proceeding as expeditiously as possible after the date of the conviction.

"(2) Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

"REMOVAL PROCEEDINGS

"SEC. 240. (a) PROCEEDING.—

"(1) IN GENERAL.—An immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of an alien.

"(2) CHARGES.—An alien placed in proceedings under this section may be charged with any applicable ground of inadmissibility under section 212(a) or any applicable ground of deportability under section 237(a).

"(3) EXCLUSIVE PROCEDURES.—Unless otherwise specified in this Act, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States. Nothing in this section shall affect proceedings conducted pursuant to section 238.

"(b) CONDUCT OF PROCEEDING.—

"(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge shall administer oaths, receive evidence, and interrogate, examine, and cross-examine the alien and any witnesses. The immigration judge may issue subpoenas for the attendance of witnesses and presentation of evidence. The immigration judge shall have authority (under regulations prescribed by the Attorney General) to sanction by civil money penalty any action (or inaction) in contempt of the judge's proper exercise of authority under this Act.

"(2) FORM OF PROCEEDING.—

"(A) IN GENERAL.—The proceeding may take place—

"(i) in person,

"(ii) where agreed to by the parties, in the absence of the alien,

"(iii) through video conference, or

"(iv) subject to subparagraph (B), through telephone conference.

"(B) CONSENT REQUIRED IN CERTAIN CASES.—An evidentiary hearing on the merits may only be conducted through a telephone conference with the consent of the alien involved after the alien has been advised of the right to proceed in person or through video conference.

"(3) PRESENCE OF ALIEN.—If it is impracticable by reason of an alien's mental incompetency for the alien to be present at the proceeding, the Attorney General shall prescribe safeguards to protect the rights and privileges of the alien.

"(4) ALIENS RIGHTS IN PROCEEDING.—In proceedings under this section, under regulations of the Attorney General—

"(A) the alien shall have the privilege of being represented, at no expense to the Government, by counsel of the alien's choosing who is authorized to practice in such proceedings,

"(B) the alien shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government but these rights shall not entitle the alien to examine such national security information as the Government may proffer in opposition to the alien's admission to the United States or to an application by the alien for discretionary relief under this Act, and

"(C) a complete record shall be kept of all testimony and evidence produced at the proceeding.

"(5) CONSEQUENCES OF FAILURE TO APPEAR.—

"(A) IN GENERAL.—Any alien who, after written notice required under paragraph (1) or (2) of section 239(a) has been provided to the alien or

the alien's counsel of record, does not attend a proceeding under this section, shall be ordered removed in absentia if the Service establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable (as defined in subsection (e)(2)). The written notice by the Attorney General shall be considered sufficient for purposes of this subparagraph if provided at the most recent address provided under section 239(a)(1)(F).

"(B) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under subparagraph (A) if the alien has failed to provide the address required under section 239(a)(1)(F).

"(C) RESCISSION OF ORDER.—Such an order may be rescinded only—

"(i) upon a motion to reopen filed within 180 days after the date of the order of removal if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (e)(1)), or

"(ii) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with paragraph (1) or (2) of section 239(a) or the alien demonstrates that the alien was in Federal or State custody and the failure to appear was through no fault of the alien.

The filing of the motion to reopen described in clause (i) or (ii) shall stay the removal of the alien pending disposition of the motion by the immigration judge.

"(D) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 242 of an order entered in absentia under this paragraph shall (except in cases described in section 242(b)(5)) be confined to (i) the validity of the notice provided to the alien, (ii) the reasons for the alien's not attending the proceeding, and (iii) whether or not the alien is removable.

"(E) ADDITIONAL APPLICATION TO CERTAIN ALIENS IN CONTIGUOUS TERRITORY.—The preceding provisions of this paragraph shall apply to all aliens placed in proceedings under this section, including any alien who remains in a contiguous foreign territory pursuant to section 235(b)(2)(C).

"(6) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation—

"(A) define in a proceeding before an immigration judge or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

"(B) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

"(C) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this paragraph shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

"(7) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—Any alien against whom a final order of removal is entered in absentia under this subsection and who, at the time of the notice described in paragraph (1) or (2) of section 239(a), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (e)(1)) to attend a proceeding under this section, shall not be eligible for relief under section 240A, 240B, 245, 248, or 249 for a period of 10 years after the date of the entry of the final order of removal.

"(c) DECISION AND BURDEN OF PROOF.—

"(1) DECISION.—

"(A) IN GENERAL.—At the conclusion of the proceeding the immigration judge shall decide whether an alien is removable from the United States. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B) CERTAIN MEDICAL DECISIONS.—If a medical officer or civil surgeon or board of medical officers has certified under section 232(b) that an alien has a disease, illness, or addiction which would make the alien inadmissible under paragraph (1) of section 212(a), the decision of the immigration judge shall be based solely upon such certification.

"(2) BURDEN ON ALIEN.—In the proceeding the alien has the burden of establishing—

"(A) if the alien is an applicant for admission, that the alien is clearly and beyond doubt entitled to be admitted and is not inadmissible under section 212; or

"(B) by clear and convincing evidence, that the alien is lawfully present in the United States pursuant to a prior admission.

In meeting the burden of proof under subparagraph (B), the alien shall have access to the alien's visa or other entry document, if any, and any other records and documents, not considered by the Attorney General to be confidential, pertaining to the alien's admission or presence in the United States.

"(3) BURDEN ON SERVICE IN CASES OF DEPORTABLE ALIENS.—

"(A) IN GENERAL.—In the proceeding the Service has the burden of establishing by clear and convincing evidence that, in the case of an alien who has been admitted to the United States, the alien is deportable. No decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

"(B) PROOF OF CONVICTIONS.—In any proceeding under this Act, any of the following documents or records (or a certified copy of such an official document or record) shall constitute proof of a criminal conviction:

"(i) An official record of judgment and conviction.

"(ii) An official record of plea, verdict, and sentence.

"(iii) A docket entry from court records that indicates the existence of the conviction.

"(iv) Official minutes of a court proceeding or a transcript of a court hearing in which the court takes notice of the existence of the conviction.

"(v) An abstract of a record of conviction prepared by the court in which the conviction was entered, or by a State official associated with the State's repository of criminal justice records, that indicates the charge or section of law violated, the disposition of the case, the existence and date of conviction, and the sentence.

"(vi) Any document or record prepared by, or under the direction of, the court in which the conviction was entered that indicates the existence of a conviction.

"(vii) Any document or record attesting to the conviction that is maintained by an official of a State or Federal penal institution, which is the basis for that institution's authority to assume custody of the individual named in the record.

"(C) ELECTRONIC RECORDS.—In any proceeding under this Act, any record of conviction or abstract that has been submitted by electronic means to the Service from a State or court shall be admissible as evidence to prove a criminal conviction if it is—

"(i) certified by a State official associated with the State's repository of criminal justice records as an official record from its repository or by a court official from the court in which the conviction was entered as an official record from its repository, and

"(ii) certified in writing by a Service official as having been received electronically from the State's record repository or the court's record repository.

A certification under clause (i) may be by means of a computer-generated signature and statement of authenticity.

"(4) NOTICE.—If the immigration judge decides that the alien is removable and orders the alien to be removed, the judge shall inform the alien of the right to appeal that decision and of the consequences for failure to depart under the order of removal, including civil and criminal penalties.

"(5) MOTIONS TO RECONSIDER.—

"(A) IN GENERAL.—The alien may file one motion to reconsider a decision that the alien is removable from the United States.

"(B) DEADLINE.—The motion must be filed within 30 days of the date of entry of a final administrative order of removal.

"(C) CONTENTS.—The motion shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority.

"(6) MOTIONS TO REOPEN.—

"(A) IN GENERAL.—An alien may file one motion to reopen proceedings under this section.

"(B) CONTENTS.—The motion to reopen shall state the new facts that will be proven at a hearing to be held if the motion is granted, and shall be supported by affidavits or other evidentiary material.

"(C) DEADLINE.—

"(i) IN GENERAL.—Except as provided in this subparagraph, the motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal.

"(ii) ASYLUM.—There is no time limit on the filing of a motion to reopen if the basis of the motion is to apply for relief under sections 208 or 241(b)(3) and is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding.

"(iii) FAILURE TO APPEAR.—The filing of a motion to reopen an order entered pursuant to subsection (b)(5) is subject to the deadline specified in subparagraph (C) of such subsection.

"(d) STIPULATED REMOVAL.—The Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien (or the alien's representative) and the Service. A stipulated order shall constitute a conclusive determination of the alien's removability from the United States.

"(e) DEFINITIONS.—In this section and section 240A:

"(1) EXCEPTIONAL CIRCUMSTANCES.—The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond the control of the alien.

"(2) REMOVABLE.—The term 'removable' means—

"(A) in the case of an alien not admitted to the United States, that the alien is inadmissible under section 212, or

"(B) in the case of an alien admitted to the United States, that the alien is deportable under section 237.

"CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

"SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(1) has been an alien lawfully admitted for permanent residence for not less than 5 years,

"(2) has resided in the United States continuously for 7 years after having been admitted in any status, and

"(3) has not been convicted of any aggravated felony.

"(b) CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.—

"(1) IN GENERAL.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien—

"(A) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application;

"(B) has been a person of good moral character during such period;

"(C) has not been convicted of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3); and

"(D) establishes that removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

"(A) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident (or is the parent of a child of a United States citizen or lawful permanent resident and the child has been battered or subjected to extreme cruelty in the United States by such citizen or permanent resident parent);

"(B) the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application;

"(C) the alien has been a person of good moral character during such period;

"(D) the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraph (1)(G) or (2) through (4) of section 237(a), and has not been convicted of an aggravated felony; and

"(E) the removal would result in extreme hardship to the alien, the alien's child, or (in the case of an alien who is a child) to the alien's parent.

In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

"(3) ADJUSTMENT OF STATUS.—The Attorney General may adjust to the status of an alien lawfully admitted for permanent residence any alien who the Attorney General determines meets the requirements of paragraph (1) or (2). The number of adjustments under this paragraph shall not exceed 4,000 for any fiscal year. The Attorney General shall record the alien's lawful admission for permanent residence as of the date the Attorney General's cancellation of removal under paragraph (1) or (2) or determination under this paragraph.

"(c) ALIENS INELIGIBLE FOR RELIEF.—The provisions of subsections (a) and (b)(1) shall not apply to any of the following aliens:

"(1) An alien who entered the United States as a crewman subsequent to June 30, 1964.

"(2) An alien who was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e).

"(3) An alien who—

"(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training,

"(B) is subject to the two-year foreign residence requirement of section 212(e), and

"(C) has not fulfilled that requirement or received a waiver thereof.

"(4) An alien who is inadmissible under section 212(a)(3) or deportable under section 237(a)(4).

"(5) An alien who is described in section 241(b)(3)(B)(i).

"(6) An alien whose removal has previously been cancelled under this section or whose deportation was suspended under section 244(a) or who has been granted relief under section 212(c), as such sections were in effect before the date of the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

"(d) SPECIAL RULES RELATING TO CONTINUOUS RESIDENCE OR PHYSICAL PRESENCE.—

"(1) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239(a) or when the alien has committed an offense referred to in section 212(a)(2) that renders the alien inadmissible to the United States under section 212(a)(2) or removable from the United States under section 237(a)(2) or 237(a)(4), whichever is earliest.

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsections (b)(1) and (b)(2) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

"(3) CONTINUITY NOT REQUIRED BECAUSE OF HONORABLE SERVICE IN ARMED FORCES AND PRESENCE UPON ENTRY INTO SERVICE.—The requirements of continuous residence or continuous physical presence in the United States under subsections (a) and (b) shall not apply to an alien who—

"(A) has served for a minimum period of 24 months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and

"(B) at the time of the alien's enlistment or induction was in the United States.

"(e) ANNUAL LIMITATION.—The Attorney General may not cancel the removal and adjust the status under this section, nor suspend the deportation and adjust the status under section 244(a) (as in effect before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), of a total of more than 4,000 aliens in any fiscal year. The previous sentence shall apply regardless of when an alien applied for such cancellation and adjustment and whether such an alien had previously applied for suspension of deportation under such section 244(a).

"VOLUNTARY DEPARTURE

"SEC. 240B. (a) CERTAIN CONDITIONS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)(B).

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.

"(3) BOND.—The Attorney General may require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(4) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien's arrival, paragraph (1) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

"(b) AT CONCLUSION OF PROCEEDINGS.—

"(1) IN GENERAL.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense if, at the conclusion of a proceeding under section 240, the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

"(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

"(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

"(C) the alien is not deportable under section 237(a)(2)(A)(iii) or section 237(a)(4); and

"(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days.

"(3) BOND.—An alien permitted to depart voluntarily under this subsection shall be required to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(c) ALIENS NOT ELIGIBLE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to so depart after having been found inadmissible under section 212(a)(6)(A).

"(d) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

"(e) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens. No court may review any regulation issued under this subsection.

"(f) JUDICIAL REVIEW.—No court shall have jurisdiction over an appeal from denial of a request for an order of voluntary departure under subsection (b), nor shall any court order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure.".

(b) REPEAL OF SECTION 212(c).—Section 212(c) (8 U.S.C. 1182(c)) is repealed.

(c) STREAMLINING REMOVAL OF CRIMINAL ALIENS.—

(1) IN GENERAL.—Section 242A(b)(4) (8 U.S.C. 1252a(b)(4)), as amended by section 442(a) of Public Law 104–132 and before redesignation by section 308(b)(5), is amended—

(A) by striking subparagraph (D);

(B) by amending subparagraph (E) to read as follows:

"(D) a determination is made for the record that the individual upon whom the notice for the proceeding under this section is served (either in person or by mail) is, in fact, the alien named in such notice;"; and

(C) by redesignating subparagraphs (F) and (G) as subparagraph (E) and (F), respectively.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective as if included in the enactment of section 442(a) of Public Law 104–132.

SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED (NEW SECTION 241).

(a) IN GENERAL.—Title II is further amended—

(1) by striking section 237 (8 U.S.C. 1227),

(2) by redesignating section 241 (8 U.S.C. 1251) as section 237 and by moving such section to immediately follow section 236, and

(3) by inserting after section 240C (as redesignated by section 304(a)(2)) the following new section:

"DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED

"SEC. 241. (a) DETENTION, RELEASE, AND REMOVAL OF ALIENS ORDERED REMOVED.—

"(1) REMOVAL PERIOD.—

"(A) IN GENERAL.—Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period').

"(B) BEGINNING OF PERIOD.—The removal period begins on the latest of the following:

"(i) The date the order of removal becomes administratively final.

"(ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

"(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

"(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.

"(2) DETENTION.—During the removal period, the Attorney General shall detain the alien. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 212(a)(2) or 212(a)(3)(B) or deportable under section 237(a)(2) or 237(a)(4)(B).

"(3) SUPERVISION AFTER 90-DAY PERIOD.—If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General. The regulations shall include provisions requiring the alien—

"(A) to appear before an immigration officer periodically for identification;

"(B) to submit, if necessary, to a medical and psychiatric examination at the expense of the United States Government;

"(C) to give information under oath about the alien's nationality, circumstances, habits, associations, and activities, and other information the Attorney General considers appropriate; and

"(D) to obey reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes for the alien.

"(4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR PROBATION.—

"(A) IN GENERAL.—Except as provided in section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

"(B) EXCEPTION FOR REMOVAL OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.—The Attorney General is authorized to remove an alien in accordance with applicable procedures under this Act before the alien has completed a sentence of imprisonment—

"(i) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens or an offense described in section 101(a)(43)(B), (C), (E), (I), or (L) and (II) the removal of the alien is appropriate and in the best interest of the United States; or

"(ii) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense described in section 101(a)(43)(C) or (E)), (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

"(C) NOTICE.—Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).

"(D) NO PRIVATE RIGHT.—No cause or claim may be asserted under this paragraph against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.

"(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If the Attorney General finds that an alien has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed, the alien is not eligible and may not apply for any relief under this Act, and the alien shall be removed under the prior order at any time after the reentry.

"(6) INADMISSIBLE OR CRIMINAL ALIENS.—An alien ordered removed who is inadmissible under section 212, removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

"(7) EMPLOYMENT AUTHORIZATION.—No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—

"(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or

"(B) the removal of the alien is otherwise impracticable or contrary to the public interest.

"(b) COUNTRIES TO WHICH ALIENS MAY BE REMOVED.—

"(1) ALIENS ARRIVING AT THE UNITED STATES.—Subject to paragraph (3)—

"(A) IN GENERAL.—Except as provided by subparagraphs (B) and (C), an alien who arrives at the United States and with respect to whom proceedings under section 240 were initiated at the time of such alien's arrival shall be removed to the country in which the alien boarded the vessel or aircraft on which the alien arrived in the United States.

"(B) TRAVEL FROM CONTIGUOUS TERRITORY.—If the alien boarded the vessel or aircraft on which the alien arrived in the United States in a foreign territory contiguous to the United States, an island adjacent to the United States, or an island adjacent to a foreign territory contiguous to the United States, and the alien is not a native, citizen, subject, or national of, or does not reside in, the territory or island, removal shall be to the country in which the alien boarded the vessel that transported the alien to the territory or island.

"(C) ALTERNATIVE COUNTRIES.—If the government of the country designated in subparagraph (A) or (B) is unwilling to accept the alien into that country's territory, removal shall be to any of the following countries, as directed by the Attorney General:

"(i) The country of which the alien is a citizen, subject, or national.

"(ii) The country in which the alien was born.

"(iii) The country in which the alien has a residence.

"(iv) A country with a government that will accept the alien into the country's territory if removal to each country described in a previous clause of this subparagraph is impracticable, inadvisable, or impossible.

"(2) OTHER ALIENS.—Subject to paragraph (3)—

"(A) SELECTION OF COUNTRY BY ALIEN.—Except as otherwise provided in this paragraph—

"(i) any alien not described in paragraph (1) who has been ordered removed may designate one country to which the alien wants to be removed, and

"(ii) the Attorney General shall remove the alien to the country the alien so designates.

"(B) LIMITATION ON DESIGNATION.—An alien may designate under subparagraph (A)(i) a foreign territory contiguous to the United States, an adjacent island, or an island adjacent to a foreign territory contiguous to the United States as the place to which the alien is to be removed only if the alien is a native, citizen, subject, or national of, or has resided in, that designated territory or island.

"(C) DISREGARDING DESIGNATION.—The Attorney General may disregard a designation under subparagraph (A)(i) if—

"(i) the alien fails to designate a country promptly;

"(ii) the government of the country does not inform the Attorney General finally, within 30 days after the date the Attorney General first inquires, whether the government will accept the alien into the country;

"(iii) the government of the country is not willing to accept the alien into the country; or

"(iv) the Attorney General decides that removing the alien to the country is prejudicial to the United States.

"(D) ALTERNATIVE COUNTRY.—If an alien is not removed to a country designated under subparagraph (A)(i), the Attorney General shall remove the alien to a country of which the alien is a subject, national, or citizen unless the government of the country—

"(i) does not inform the Attorney General or the alien finally, within 30 days after the date the Attorney General first inquires or within another period of time the Attorney General decides is reasonable, whether the government will accept the alien into the country; or

"(ii) is not willing to accept the alien into the country.

"(E) ADDITIONAL REMOVAL COUNTRIES.—If an alien is not removed to a country under the previous subparagraphs of this paragraph, the Attorney General shall remove the alien to any of the following countries:

"(i) The country from which the alien was admitted to the United States.

"(ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.

"(iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.

"(iv) The country in which the alien was born.

"(v) The country that had sovereignty over the alien's birthplace when the alien was born.

"(vi) The country in which the alien's birthplace is located when the alien is ordered removed.

"(vii) If impracticable, inadvisable, or impossible to remove the alien to each country described in a previous clause of this subparagraph, another country whose government will accept the alien into that country.

"(F) REMOVAL COUNTRY WHEN UNITED STATES IS AT WAR.—When the United States is at war and the Attorney General decides that it is impracticable, inadvisable, inconvenient, or impossible to remove an alien under this subsection because of the war, the Attorney General may remove the alien—

"(i) to the country that is host to a government in exile of the country of which the alien is a citizen or subject if the government of the host country will permit the alien's entry; or

"(ii) if the recognized government of the country of which the alien is a citizen or subject is not in exile, to a country, or a political or territorial subdivision of a country, that is very near the country of which the alien is a citizen or subject, or, with the consent of the government of the country of which the alien is a citizen or subject, to another country.

"(3) RESTRICTION ON REMOVAL TO A COUNTRY WHERE ALIEN'S LIFE OR FREEDOM WOULD BE THREATENED.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

"(B) EXCEPTION.—Subparagraph (A) does not apply to an alien deportable under section 237(a)(4)(D) or if the Attorney General decides that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of an individual because of the individual's race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime is a danger to the community of the United States;

"(iii) there are serious reasons to believe that the alien committed a serious nonpolitical crime outside the United States before the alien arrived in the United States; or

"(iv) there are reasonable grounds to believe that the alien is a danger to the security of the United States.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a particularly serious crime. The previous sentence shall not preclude the Attorney General from determining that, notwithstanding the length of sentence imposed, an alien has been convicted of a particularly serious crime. For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.

"(c) REMOVAL OF ALIENS ARRIVING AT PORT OF ENTRY.—

"(1) VESSELS AND AIRCRAFT.—An alien arriving at a port of entry of the United States who is ordered removed either without a hearing under section 235(b)(1) or 235(c) or pursuant to proceedings under section 240 initiated at the time of such alien's arrival shall be removed immediately on a vessel or aircraft owned by the owner of the vessel or aircraft on which the alien arrived in the United States, unless—

"(A) it is impracticable to remove the alien on one of those vessels or aircraft within a reasonable time, or

"(B) the alien is a stowaway—

"(i) who has been ordered removed in accordance with section 235(a)(1),

"(ii) who has requested asylum, and

"(iii) whose application has not been adjudicated or whose asylum application has been denied but who has not exhausted all appeal rights.

"(2) STAY OF REMOVAL.—

"(A) IN GENERAL.—The Attorney General may stay the removal of an alien under this subsection if the Attorney General decides that—

"(i) immediate removal is not practicable or proper; or

"(ii) the alien is needed to testify in the prosecution of a person for a violation of a law of the United States or of any State.

"(B) PAYMENT OF DETENTION COSTS.—During the period an alien is detained because of a stay of removal under subparagraph (A)(ii), the Attorney General may pay from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'—

"(i) the cost of maintenance of the alien; and

"(ii) a witness fee of $1 a day.

"(C) RELEASE DURING STAY.—The Attorney General may release an alien whose removal is stayed under subparagraph (A)(ii) on—

"(i) the alien's filing a bond of at least $500 with security approved by the Attorney General;

"(ii) condition that the alien appear when required as a witness and for removal; and

"(iii) other conditions the Attorney General may prescribe.

"(3) COSTS OF DETENTION AND MAINTENANCE PENDING REMOVAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), an owner of a vessel or aircraft bringing an alien to the United States shall pay the costs of detaining and maintaining the alien—

"(i) while the alien is detained under subsection (d)(1), and

"(ii) in the case of an alien who is a stowaway, while the alien is being detained pursuant to—

"(I) subsection (d)(2)(A) or (d)(2)(B)(i),

"(II) subsection (d)(2)(B) (ii) or (iii) for the period of time reasonably necessary for the owner to arrange for repatriation or removal of the stowaway, including obtaining necessary travel documents, but not to extend beyond the date on which it is ascertained that such travel documents cannot be obtained from the country to which the stowaway is to be returned, or

"(III) section 235(b)(1)(B)(ii), for a period not to exceed 15 days (excluding Saturdays, Sundays, and holidays) commencing on the first such day which begins on the earlier of 72 hours after the time of the initial presentation of the stowaway for inspection or at the time the stowaway is determined to have a credible fear of persecution.

"(B) NONAPPLICATION.—Subparagraph (A) shall not apply if—

"(i) the alien is a crewmember;

"(ii) the alien has an immigrant visa;

"(iii) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States and applies for admission not later than 120 days after the date the visa or documentation was issued;

"(iv) the alien has a reentry permit and applies for admission not later than 120 days after the date of the alien's last inspection and admission;

"(v)(I) the alien has a nonimmigrant visa or other documentation authorizing the alien to apply for temporary admission to the United States or a reentry permit;

"(II) the alien applies for admission more than 120 days after the date the visa or documentation was issued or after the date of the last inspection and admission under the reentry permit; and

"(III) the owner of the vessel or aircraft satisfies the Attorney General that the existence of the condition relating to inadmissibility could not have been discovered by exercising reasonable care before the alien boarded the vessel or aircraft; or

"(vi) the individual claims to be a national of the United States and has a United States passport.

"(d) REQUIREMENTS OF PERSONS PROVIDING TRANSPORTATION.—

"(1) REMOVAL AT TIME OF ARRIVAL.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States shall—

"(A) receive an alien back on the vessel or aircraft or another vessel or aircraft owned or operated by the same interests if the alien is ordered removed under this part; and

"(B) take the alien to the foreign country to which the alien is ordered removed.

"(2) ALIEN STOWAWAYS.—An owner, agent, master, commanding officer, charterer, or consignee of a vessel or aircraft arriving in the United States with an alien stowaway—

"(A) shall detain the alien on board the vessel or aircraft, or at such place as the Attorney General shall designate, until completion of the inspection of the alien by an immigration officer;

"(B) may not permit the stowaway to land in the United States, except pursuant to regulations of the Attorney General temporarily—

"(i) for medical treatment,

"(ii) for detention of the stowaway by the Attorney General, or

"(iii) for departure or removal of the stowaway; and

"(C) if ordered by an immigration officer, shall remove the stowaway on the vessel or aircraft or on another vessel or aircraft.

The Attorney General shall grant a timely request to remove the stowaway under subparagraph (C) on a vessel or aircraft other than that on which the stowaway arrived if the requester has obtained any travel documents necessary for departure or repatriation of the stowaway and removal of the stowaway will not be unreasonably delayed.

"(3) REMOVAL UPON ORDER.—An owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel, aircraft, or other transportation line shall comply with an order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be removed under this Act.

"(e) PAYMENT OF EXPENSES OF REMOVAL.—

"(1) COSTS OF REMOVAL AT TIME OF ARRIVAL.—In the case of an alien who is a stowaway or who is ordered removed either without a hearing under section 235(a)(1) or 235(c) or pursuant to proceedings under section 240 initiated

at the time of such alien's arrival, the owner of the vessel or aircraft (if any) on which the alien arrived in the United States shall pay the transportation cost of removing the alien. If removal is on a vessel or aircraft not owned by the owner of the vessel or aircraft on which the alien arrived in the United States, the Attorney General may—

"(A) pay the cost from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses'; and

"(B) recover the amount of the cost in a civil action from the owner, agent, or consignee of the vessel or aircraft (if any) on which the alien arrived in the United States.

"(2) COSTS OF REMOVAL TO PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—In the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien to the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(3) COSTS OF REMOVAL FROM PORT OF REMOVAL FOR ALIENS ADMITTED OR PERMITTED TO LAND.—

"(A) THROUGH APPROPRIATION.—Except as provided in subparagraph (B), in the case of an alien who has been admitted or permitted to land and is ordered removed, the cost (if any) of removal of the alien from the port of removal shall be at the expense of the appropriation for the enforcement of this Act.

"(B) THROUGH OWNER.—

"(i) IN GENERAL.—In the case of an alien described in clause (ii), the cost of removal of the alien from the port of removal may be charged to any owner of the vessel, aircraft, or other transportation line by which the alien came to the United States.

"(ii) ALIENS DESCRIBED.—An alien described in this clause is an alien who—

"(I) is admitted to the United States (other than lawfully admitted for permanent residence) and is ordered removed within 5 years of the date of admission based on a ground that existed before or at the time of admission, or

"(II) is an alien crewman permitted to land temporarily under section 252 and is ordered removed within 5 years of the date of landing.

"(C) COSTS OF REMOVAL OF CERTAIN ALIENS GRANTED VOLUNTARY DEPARTURE.—In the case of an alien who has been granted voluntary departure under section 240B and who is financially unable to depart at the alien's own expense and whose removal the Attorney General deems to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

"(f) ALIENS REQUIRING PERSONAL CARE DURING REMOVAL.—

"(1) IN GENERAL.—If the Attorney General believes that an alien being removed requires personal care because of the alien's mental or physical condition, the Attorney General may employ a suitable person for that purpose who shall accompany and care for the alien until the alien arrives at the final destination.

"(2) COSTS.—The costs of providing the service described in paragraph (1) shall be defrayed in the same manner as the expense of removing the accompanied alien is defrayed under this section.

"(g) PLACES OF DETENTION.—

"(1) IN GENERAL.—The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal. When United States Government facilities are unavailable or facilities adapted or suitably located for detention are unavailable for rental, the Attorney General may expend from the appropriation 'Immigration and Naturalization Service—Salaries and Expenses', without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), amounts necessary to acquire land and to acquire, build, remodel, repair, and operate facilities (including living quarters for immigration officers if not otherwise available) necessary for detention.

"(2) DETENTION FACILITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.—Prior to initiating any project for the construction of any new detention facility for the Service, the Commissioner shall consider the availability for purchase or lease of any existing prison, jail, detention center, or other comparable facility suitable for such use.

"(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276(b) (8 U.S.C. 1326(b)), as amended by section 321(b), is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by adding "or" at the end of paragraph (3), and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) who was removed from the United States pursuant to section 241(a)(4)(B) who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by section 621(a), is amended by striking "241(a)(5)(B)" each place it appears and inserting "237(a)(5)(B)".

SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SECTION 242).

(a) IN GENERAL.—Section 242 (8 U.S.C. 1252) is amended—

(1) by redesignating subsection (j) as subsection (i) and by moving such subsection and adding it at the end of section 241, as inserted by section 305(a)(3); and

(2) by amending the remainder of section 242 to read as follows:

"JUDICIAL REVIEW OF ORDERS OF REMOVAL

"SEC. 242. (a) APPLICABLE PROVISIONS.—

"(1) GENERAL ORDERS OF REMOVAL.—Judicial review of a final order of removal (other than an order of removal without a hearing pursuant to section 235(b)(1)) is governed only by chapter 158 of title 28 of the United States Code, except as provided in subsection (b) and except that the court may not order the taking of additional evidence under section 2347(c) of such title.

"(2) MATTERS NOT SUBJECT TO JUDICIAL REVIEW.—

"(A) REVIEW RELATING TO SECTION 235(b)(1).—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(i) except as provided in subsection (e), any individual determination or to entertain any other cause or claim arising from or relating to the implementation or operation of an order of removal pursuant to section 235(b)(1),

"(ii) except as provided in subsection (e), a decision by the Attorney General to invoke the provisions of such section,

"(iii) the application of such section to individual aliens, including the determination made under section 235(b)(1)(B), or

"(iv) except as provided in subsection (e), procedures and policies adopted by the Attorney General to implement the provisions of section 235(b)(1).

"(B) DENIALS OF DISCRETIONARY RELIEF.—Notwithstanding any other provision of law, no court shall have jurisdiction to review—

"(i) any judgment regarding the granting of relief under section 212(h), 212(i), 240A, 240B, or 245, or

"(ii) any other decision or action of the Attorney General the authority for which is specified under this title to be in the discretion of the Attorney General, other than the granting of relief under section 208(a).

"(C) ORDERS AGAINST CRIMINAL ALIENS.—Notwithstanding any other provision of law, no court shall have jurisdiction to review any final order of removal against an alien who is removable by reason of having committed a criminal offense covered in section 212(a)(2) or 237(a)(2)(A)(iii), (B), (C), or (D), or any offense covered by section 237(a)(2)(A)(ii) for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 237(a)(2)(A)(i).

"(3) TREATMENT OF CERTAIN DECISIONS.—No alien shall have a right to appeal from a decision of an immigration judge which is based solely on a certification described in section 240(c)(1)(B).

"(b) REQUIREMENTS FOR REVIEW OF ORDERS OF REMOVAL.—With respect to review of an order of removal under subsection (a)(1), the following requirements apply:

"(1) DEADLINE.—The petition for review must be filed not later than 30 days after the date of the final order of removal.

"(2) VENUE AND FORMS.—The petition for review shall be filed with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings. The record and briefs do not have to be printed. The court of appeals shall review the proceeding on a typewritten record and on typewritten briefs.

"(3) SERVICE.—

"(A) IN GENERAL.—The respondent is the Attorney General. The petition shall be served on the Attorney General and on the officer or employee of the Service in charge of the Service district in which the final order of removal under section 240 was entered.

"(B) STAY OF ORDER.—Service of the petition on the officer or employee does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

"(C) ALIEN'S BRIEF.—The alien shall serve and file a brief in connection with a petition for judicial review not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, and the court may not extend these deadlines except upon motion for good cause shown. If an alien fails to file a brief within the time provided in this paragraph, the court shall dismiss the appeal unless a manifest injustice would result.

"(4) SCOPE AND STANDARD FOR REVIEW.—Except as provided in paragraph (5)(B)—

"(A) the court of appeals shall decide the petition only on the administrative record on which the order of removal is based,

"(B) the administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary,

"(C) a decision that an alien is not eligible for admission to the United States is conclusive unless manifestly contrary to law, and

"(D) the Attorney General's discretionary judgment whether to grant relief under section 208(a) shall be conclusive unless manifestly contrary to the law and an abuse of discretion.

"(5) TREATMENT OF NATIONALITY CLAIMS.—

"(A) COURT DETERMINATION IF NO ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds from the pleadings and affidavits that no genuine issue of material fact about the petitioner's nationality is presented, the court shall decide the nationality claim.

"(B) TRANSFER IF ISSUE OF FACT.—If the petitioner claims to be a national of the United States and the court of appeals finds that a genuine issue of material fact about the petitioner's nationality is presented, the court shall transfer the proceeding to the district court of the United States for the judicial district in which the petitioner resides for a new hearing on the nationality claim and a decision on that claim as if an action had been brought in the district court under section 2201 of title 28, United States Code.

"(C) LIMITATION ON DETERMINATION.—The petitioner may have such nationality claim decided only as provided in this paragraph.

"(6) CONSOLIDATION WITH REVIEW OF MOTIONS TO REOPEN OR RECONSIDER.—When a petitioner seeks review of an order under this section, any review sought of a motion to reopen or reconsider the order shall be consolidated with the review of the order.

"(7) CHALLENGE TO VALIDITY OF ORDERS IN CERTAIN CRIMINAL PROCEEDINGS.—

"(A) IN GENERAL.—If the validity of an order of removal has not been judicially decided, a defendant in a criminal proceeding charged with violating section 243(a) may challenge the validity of the order in the criminal proceeding only by filing a separate motion before trial. The district court, without a jury, shall decide the motion before trial.

"(B) CLAIMS OF UNITED STATES NATIONALITY.—If the defendant claims in the motion to be a national of the United States and the district court finds that—

"(i) no genuine issue of material fact about the defendant's nationality is presented, the court shall decide the motion only on the administrative record on which the removal order is based and the administrative findings of fact are conclusive if supported by reasonable, substantial, and probative evidence on the record considered as a whole; or

"(ii) a genuine issue of material fact about the defendant's nationality is presented, the court shall hold a new hearing on the nationality claim and decide that claim as if an action had been brought under section 2201 of title 28, United States Code.

The defendant may have such nationality claim decided only as provided in this subparagraph.

"(C) CONSEQUENCE OF INVALIDATION.—If the district court rules that the removal order is invalid, the court shall dismiss the indictment for violation of section 243(a). The United States Government may appeal the dismissal to the court of appeals for the appropriate circuit within 30 days after the date of the dismissal.

"(D) LIMITATION ON FILING PETITIONS FOR REVIEW.—The defendant in a criminal proceeding under section 243(a) may not file a petition for review under subsection (a) during the criminal proceeding.

"(8) CONSTRUCTION.—This subsection—

"(A) does not prevent the Attorney General, after a final order of removal has been issued, from detaining the alien under section 241(a);

"(B) does not relieve the alien from complying with section 241(a)(4) and section 243(g); and

"(C) does not require the Attorney General to defer removal of the alien.

"(9) CONSOLIDATION OF QUESTIONS FOR JUDICIAL REVIEW.—Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this title shall be available only in judicial review of a final order under this section.

"(c) REQUIREMENTS FOR PETITION.—A petition for review or for habeas corpus of an order of removal—

"(1) shall attach a copy of such order, and

"(2) shall state whether a court has upheld the validity of the order, and, if so, shall state the name of the court, the date of the court's ruling, and the kind of proceeding.

"(d) REVIEW OF FINAL ORDERS.—A court may review a final order of removal only if—

"(1) the alien has exhausted all administrative remedies available to the alien as of right, and

"(2) another court has not decided the validity of the order, unless the reviewing court finds that the petition presents grounds that could not have been presented in the prior judicial proceeding or that the remedy provided by the prior proceeding was inadequate or ineffective to test the validity of the order.

"(e) JUDICIAL REVIEW OF ORDERS UNDER SECTION 235(b)(1).—

"(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

"(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to an order to exclude an alien in accordance with section 235(b)(1) except as specifically authorized in a subsequent paragraph of this subsection, or

"(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

"(2) HABEAS CORPUS PROCEEDINGS.—Judicial review of any determination made under section 235(b)(1) is available in habeas corpus proceedings, but shall be limited to determinations of—

"(A) whether the petitioner is an alien,

"(B) whether the petitioner was ordered removed under such section, and

"(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 207, or has been granted asylum under section 208, such status not having been terminated, and is entitled to such further inquiry as prescribed by the Attorney General pursuant to section 235(b)(1)(C).

"(3) CHALLENGES ON VALIDITY OF THE SYSTEM.—

"(A) IN GENERAL.—Judicial review of determinations under section 235(b) and its implementation is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

"(i) whether such section, or any regulation issued to implement such section, is constitutional; or

"(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Attorney General to implement such section, is not consistent with applicable provisions of this title or is otherwise in violation of law.

"(B) DEADLINES FOR BRINGING ACTIONS.—Any action instituted under this paragraph must be filed no later than 60 days after the date the challenged section, regulation, directive, guideline, or procedure described in clause (i) or (ii) of subparagraph (A) is first implemented.

"(C) NOTICE OF APPEAL.—A notice of appeal of an order issued by the District Court under this paragraph may be filed not later than 30 days after the date of issuance of such order.

"(D) EXPEDITIOUS CONSIDERATION OF CASES.—It shall be the duty of the District Court, the Court of Appeals, and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any case considered under this paragraph.

"(4) DECISION.—In any case where the court determines that the petitioner—

"(A) is an alien who was not ordered removed under section 235(b)(1), or

"(B) has demonstrated by a preponderance of the evidence that the alien is an alien lawfully admitted for permanent residence, has been admitted as a refugee under section 207, or has been granted asylum under section 208,

the court may order no remedy or relief other than to require that the petitioner be provided a hearing in accordance with section 240. Any alien who is provided a hearing under section 240 pursuant to this paragraph may thereafter obtain judicial review of any resulting final order of removal pursuant to subsection (a)(1).

"(5) SCOPE OF INQUIRY.—In determining whether an alien has been ordered removed under section 235(b)(1), the court's inquiry shall be limited to whether such an order in fact was issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually inadmissible or entitled to any relief from removal.

"(f) LIMIT ON INJUNCTIVE RELIEF.—

(1) IN GENERAL.—Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, no court (other than the Supreme Court) shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of chapter 4 of title II, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, other than with respect to the application of such provisions to an individual alien against whom proceedings under such chapter have been initiated.

(2) PARTICULAR CASES.—Notwithstanding any other provision of law, no court shall enjoin the removal of any alien pursuant to a final order under this section unless the alien shows by clear and convincing evidence that the entry or execution of such order is prohibited as a matter of law.

"(g) EXCLUSIVE JURISDICTION.—Except as provided in this section and notwithstanding any other provision of law, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.".

(b) REPEAL OF SECTION 106.—Section 106 (8 U.S.C. 1105a) is repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to all final orders of deportation or removal and motions to reopen filed on or after the date of the enactment of this Act and subsection (g) of section 242 of the Immigration and Nationality Act (as added by subsection (a)), shall apply without limitation to claims arising from all past, pending, or future exclusion, deportation, or removal proceedings under such Act.

(2) LIMITATION.—Paragraph (1) shall not be considered to invalidate or to require the reconsideration of any judgment or order entered under section 106 of the Immigration and Nationality Act, as amended by section 440 of Public Law 104–132.

(d) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), subsections (a), (c), (d), (g), and (h) of section 440 of such Act are amended by striking "any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i)" and inserting "any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are, without regard to the date of their commission, otherwise covered by section 241(a)(2)(A)(i)".

SEC. 307. PENALTIES RELATING TO REMOVAL (REVISED SECTION 243).

(a) IN GENERAL.—Section 243 (8 U.S.C. 1253) is amended to read as follows:

"PENALTIES RELATED TO REMOVAL

"SEC. 243. (a) PENALTY FOR FAILURE TO DEPART.—

"(1) IN GENERAL.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a), who—

"(A) willfully fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

"(B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

"(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

"(D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.

"(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

"(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

"(A) the age, health, and period of detention of the alien;

"(B) the effect of the alien's release upon the national security and public peace or safety;

"(C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;

"(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;

"(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and

"(F) the eligibility of the alien for discretionary relief under the immigration laws.

"(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who shall willfully fail to comply with regulations or requirements issued pursuant to section 241(a)(3) or knowingly give false information in response to an inquiry under such section shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

"(1) CIVIL PENALTIES.—

"(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241, the person shall pay to the Commissioner the sum of $2,000 for each violation.

"(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2), the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

"(C) NO COMPROMISE.—The Attorney General may not compromise the amount of such penalty under this paragraph.

"(2) CLEARING VESSELS AND AIRCRAFT.—

"(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

"(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

"(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.".

SEC. 308. REDESIGNATION AND REORGANIZATION OF OTHER PROVISIONS; ADDITIONAL CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENT TO TABLE OF CONTENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The table of contents, as amended by sections 123(b) and 851(d)(1), is amended—

(1) by striking the item relating to section 106, and

(2) by striking the item relating to chapter 4 of title II and all that follows through the item relating to section 244A and inserting the following:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL

"Sec. 231. Lists of alien and citizen passengers arriving or departing; record of resident aliens and citizens leaving permanently for foreign country.

"Sec. 232. Detention of aliens for physical and mental examination.

"Sec. 233. Entry through or from foreign territory and adjacent islands; landing stations.

"Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.

"Sec. 235. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.

"Sec. 235A. Preinspection at foreign airports.

"Sec. 236. Apprehension and detention of aliens not lawfully in the United States.

"Sec. 237. General classes of deportable aliens.

"Sec. 238. Expedited removal of aliens convicted of committing aggravated felonies.

"Sec. 239. Initiation of removal proceedings.

"Sec. 240. Removal proceedings.

"Sec. 240A. Cancellation of removal; adjustment of status.

"Sec. 240B. Voluntary departure.

"Sec. 240C. Records of admission.

"Sec. 241. Detention and removal of aliens ordered removed.

"Sec. 242. Judicial review of orders of removal.

"Sec. 243. Penalties relating to removal.

"Sec. 244. Temporary protected status.

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(b) REORGANIZATION OF OTHER PROVISIONS.—Chapters 4 and 5 of title II are amended as follows:

(1) AMENDING CHAPTER HEADING.—Amend the heading for chapter 4 of title II to read as follows:

"CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND REMOVAL".

(2) REDESIGNATING SECTION 232 AS SECTION 232(a).—Amend section 232 (8 U.S.C. 1222)—

(A) by inserting "(a) DETENTION OF ALIENS.—" after "SEC. 232.", and

(B) by amending the section heading to read as follows:

"DETENTION OF ALIENS FOR PHYSICAL AND MENTAL EXAMINATION".

(3) REDESIGNATING SECTION 234 AS SECTION 232(b).—Amend section 234 (8 U.S.C. 1224)—

(A) by striking the heading,

(B) by striking "SEC. 234." and inserting the following: "(b) PHYSICAL AND MENTAL EXAMINATION.—", and

(C) by moving such provision to the end of section 232.

(4) REDESIGNATING SECTION 238 AS SECTION 233.—Redesignate section 238 (8 U.S.C. 1228) as section 233 and move the section to immediately follow section 232.

(5) REDESIGNATING SECTION 242A AS SECTION 238.—Redesignate section 242A as section 238, strike "DEPORTATION" in its heading and insert "REMOVAL", and move the section to immediately follow section 237 (as redesignated by section 305(a)(2)).

(6) STRIKING SECTION 242B.—Strike section 242B (8 U.S.C. 1252b).

(7) STRIKING SECTION 244 AND REDESIGNATING SECTION 244A AS SECTION 244.—Strike section 244 (8 U.S.C. 1254) and redesignate section 244A as section 244.

(8) AMENDING CHAPTER HEADING.—Amend the heading for chapter 5 of title II to read as follows:

"CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS".

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) EXPEDITED PROCEDURES FOR AGGRAVATED FELONS (FORMER SECTION 242A).—Section 238 (which, previous to redesignation under section 308(b)(5), was section 242A) is amended—

(A) in subsection (a)(1), by striking "section 242" and inserting "section 240";

(B) in subsection (a)(2), by striking "section 242(a)(2)" and inserting "section 236(c)"; and

(C) in subsection (b)(1), by striking "section 241(a)(2)(A)(iii)" and inserting "section 237(a)(2)(A)(iii)".

(2) TREATMENT OF CERTAIN HELPLESS ALIENS.—

(A) CERTIFICATION OF HELPLESS ALIENS.—Section 232 (8 U.S.C. 1222), as amended by section 308(b)(2), is further amended by adding at the end the following new subsection:

"(c) CERTIFICATION OF CERTAIN HELPLESS ALIENS.—If an examining medical officer determines that an alien arriving in the United States is inadmissible, is helpless from sickness, mental or physical disability, or infancy, and is accompanied by another alien whose protection or guardianship may be required, the officer

may certify such fact for purposes of applying section 212(a)(10)(B) with respect to the other alien.".

(B) GROUND OF INADMISSIBILITY FOR PROTECTION AND GUARDIANSHIP OF ALIENS DENIED ADMISSION FOR HEALTH OR INFANCY.—Subparagraph (B) of section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(a)(1), is amended to read as follows:

"(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

"(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness, mental or physical disability, or infancy pursuant to section 232(c), and

"(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.".

(3) CONTINGENT CONSIDERATION IN RELATION TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C. 1323(a)) is amended—

(A) by inserting "(1)" after "(a)", and

(B) by adding at the end the following new paragraph:

"(2) It is unlawful for an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft who is bringing an alien (except an alien crewmember) to the United States to take any consideration to be kept or returned contingent on whether an alien is admitted to, or ordered removed from, the United States.".

(4) CLARIFICATION.—(A) Section 238(a)(1), which, previous to redesignation under section 308(b)(5), was section 242A(a)(1), is amended by adding at the end the following: "Nothing in this section shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(B) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), as amended by section 851(b)(15), is amended by striking "and nothing in" and all that follows up to "shall".

(d) ADDITIONAL CONFORMING AMENDMENTS RELATING TO EXCLUSION AND INADMISSIBILITY.—

(1) SECTION 212.—Section 212 (8 U.S.C. 1182(a)) is amended—

(A) in the heading, by striking "EXCLUDED FROM" and inserting "INELIGIBLE FOR";

(B) in the matter in subsection (a) before paragraph (1), by striking all that follows "(a)" and inserting the following: "CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:";

(C) in subsection (a), by striking "is excludable" and inserting "is inadmissible" each place it appears;

(D) in subsections (a)(5)(C) (before redesignation by section 343(c)(1), (d)(1), (k), by striking "exclusion" and inserting "inadmissibility";

(E) in subsections (b), (d)(3), (h)(1)(A)(i), and (k), by striking "excludable" each place it appears and inserting "inadmissible";

(F) in subsection (b)(2), by striking "or ineligible for entry";

(G) in subsection (d)(7), by striking "excluded from" and inserting "denied"; and

(H) in subsection (h)(1)(B), by striking "exclusion" and inserting "denial of admission".

(2) SECTION 241.—Section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended—

(A) in subsection (a)(1)(H), by striking "excludable" and inserting "inadmissible";

(B) in subsection (a)(4)(C)(ii), by striking "excludability" and inserting "inadmissibility";

(C) in subsection (c), by striking "exclusion" and inserting "inadmissibility"; and

(D) effective upon enactment of this Act, by striking subsection (d), as added by section 414(a) of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104–132).

(3) OTHER GENERAL REFERENCES.—The following provisions are amended by striking "excludability" and "excludable" each place each appears and inserting "inadmissibility" and "inadmissible", respectively:

(A) Sections 101(f)(3), 213, 234 (before redesignation by section 308(b)), 241(a)(1) (before redesignation by section 305(a)(2)), 272(a), 277, 286(h)(2)(A)(v), and 286(h)(2)(A)(vi).

(B) Section 601(c) of the Immigration Act of 1990.

(C) Section 128 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).

(D) Section 1073 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337).

(E) Section 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

(4) RELATED TERMS.—

(A) Section 101(a)(17) (8 U.S.C. 1101(a)(17)) is amended by striking "or expulsion" and inserting "expulsion, or removal".

(B) Section 102 (8 U.S.C. 1102) is amended by striking "exclusion or deportation" and inserting "removal".

(C) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "been excluded or deported" and inserting "not been admitted or have been removed".

(D) Section 206 (8 U.S.C. 1156) is amended by striking "excluded from admission to the United States and deported" and inserting "denied admission to the United States and removed".

(E) Section 216(f) (8 U.S.C. 1186a) is amended by striking "exclusion" and inserting "inadmissibility".

(F) Section 217 (8 U.S.C. 1187) is amended by striking "excluded from admission" and inserting "denied admission at the time of arrival" each place it appears.

(G) Section 221(f) (8 U.S.C. 1201) is amended by striking "exclude" and inserting "deny admission to".

(H) Section 232(a) (8 U.S.C. 1222(a)), as redesignated by subsection (b)(2), is amended by striking "excluded by" and "the excluded classes" and inserting "inadmissible under" and "inadmissible classes", respectively.

(I)(i) Section 272 (8 U.S.C. 1322) is amended—

(I) by striking "EXCLUSION" in the heading and inserting "DENIAL OF ADMISSION",

(II) in subsection (a), by striking "excluding condition" and inserting "condition causing inadmissibility", and

(III) in subsection (c), by striking "excluding".

(ii) The item in the table of contents relating to such section is amended by striking "exclusion" and inserting "denial of admission".

(J) Section 276(a) (8 U.S.C. 1326(a)) is amended—

(i) in paragraph (1), as amended by section 324(a)—

(I) by striking "arrested and deported, has been excluded and deported," and inserting "denied admission, excluded, deported, or removed", and

(II) by striking "exclusion or deportation" and inserting "exclusion, deportation, or removal"; and

(ii) in paragraph (2)(B), by striking "excluded and deported" and inserting "denied admission and removed".

(K) Section 286(h)(2)(A)(vi) (8 U.S.C. 1356(h)(2)(A)(vi)) is amended by striking "exclusion" each place it appears and inserting "removal".

(L) Section 287 (8 U.S.C. 1357) is amended—

(i) in subsection (a), by striking "or expulsion" each place it appears and inserting "expulsion, or removal", and

(ii) in subsection (c), by striking "exclusion from" and inserting "denial of admission to".

(M) Section 290(a) (8 U.S.C. 1360(a)) is amended by striking "admitted to the United States, or excluded therefrom" each place it appears and inserting "admitted or denied admission to the United States".

(N) Section 291 (8 U.S.C. 1361) is amended by striking "subject to exclusion" and inserting "inadmissible" each place it appears.

(O) Section 292 (8 U.S.C. 1362) is amended by striking "exclusion or deportation" each place it appears and inserting "removal".

(P) Section 360 (8 U.S.C. 1503) is amended—

(i) in subsection (a), by striking "exclusion" each place it appears and inserting "removal", and

(ii) in subsection (c), by striking "excluded from" and inserting "denied".

(Q) Section 507(b)(2)(D) (8 U.S.C. 1537(b)(2)(D)) is amended by striking "exclusion because such alien is excludable" and inserting "removal because such alien is inadmissible".

(R) Section 301(a)(1) of the Immigration Act of 1990 is amended by striking "exclusion" and inserting "inadmissibility".

(S) Section 401(c) of the Refugee Act of 1980 is amended by striking "deportation or exclusion" and inserting "removal".

(T) Section 501(e)(2) of the Refugee Education Assistance Act of 1980 (Public Law 96–422) is amended—

(i) by striking "exclusion or deportation" each place it appears and inserting "removal", and

(ii) by striking "deportation or exclusion" each place it appears and inserting "removal".

(U) Section 4113(c) of title 18, United States Code, is amended by striking "exclusion and deportation" and inserting "removal".

(5) REPEAL OF SUPERSEDED PROVISION.—Effective as of the date of the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, section 422 of such Act is repealed and the Immigration and Nationality Act shall be applied as if such section had not been enacted.

(e) REVISION OF TERMINOLOGY RELATING TO DEPORTATION.—

(1) Each of the following is amended by striking "deportation" each place it appears and inserting "removal":

(A) Subparagraphs (A)(iii)(II), (A)(iv)(II), and (B)(iii)(II) of section 204(a)(1) (8 U.S.C. 1154(a)(1)).

(B) Section 212(d)(1) (8 U.S.C. 1182(d)(1)).

(C) Section 212(d)(11) (8 U.S.C. 1182(d)(11)).

(D) Section 214(k)(4)(C) (8 U.S.C. 1184(k)(4)(C)), as redesignated by section 851(a)(3)(A).

(E) Section 241(a)(1)(H) (8 U.S.C. 1251(a)(1)(H)), before redesignation as section 237 by section 305(a)(2).

(F) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(5).

(G) Subsections (a)(3) and (b)(5)(B) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by subsection (b)(7).

(H) Section 246(a) (8 U.S.C. 1256(a)).

(I) Section 254 (8 U.S.C. 1284).

(J) Section 263(a)(4) (8 U.S.C. 1303(a)(4)).

(K) Section 276(b) (8 U.S.C. 1326(b)).

(L) Section 286(h)(2)(A)(v) (8 U.S.C. 1356(h)(2)(A)(v)).

(M) Section 287(g) (8 U.S.C. 1357(g)) (as added by section 122).

(N) Section 291 (8 U.S.C. 1361).

(O) Section 318 (8 U.S.C. 1429).

(P) Section 130005(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(Q) Section 4113(b) of title 18, United States Code.

(2) Each of the following is amended by striking "deported" each place it appears and inserting "removed":

(A) Section 212(d)(7) (8 U.S.C. 1182(d)(7)).

(B) Section 214(d) (8 U.S.C. 1184(d)).

(C) Section 241(a) (8 U.S.C. 1251(a)), before redesignation as section 237 by section 305(a)(2).

(D) Section 242A(c)(2)(D)(iv) (8 U.S.C. 1252a(c)(2)(D)(iv)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5).

(E) Section 252(b) (8 U.S.C. 1282(b)).

(F) Section 254 (8 U.S.C. 1284).

(G) Subsections (b) and (c) of section 266 (8 U.S.C. 1306).

(H) Section 301(a)(1) of the Immigration Act of 1990.

(I) Section 4113 of title 18, United States Code.

(3) Section 101(g) (8 U.S.C. 1101(g)) is amended by inserting "or removed" after "deported" each place it appears.

(4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is amended by striking "suspension of deportation" and inserting "cancellation of removal".

(5) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) is amended by striking "deportation is suspended" and inserting "removal is canceled".

(6) Section 212(l)(2)(B) (8 U.S.C. 1182(l)(2)(B)) is amended by striking "deportation against" and inserting "removal of".

(7) Subsections (b)(2), (c)(2)(B), (c)(3)(D), (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C. 1186a) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" each place each appears and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(8) Subsections (b)(2), (c)(2)(B), (c)(3)(D), and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are each amended by striking "DEPORTATION", "deportation", "deport", and "deported" and inserting "REMOVAL", "removal", "remove", and "removed", respectively.

(9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is amended by striking "deportation against" and inserting "removal of".

(10) Section 242A (8 U.S.C. 1252a), before redesignation as section 238 by subsection (b)(6), is amended, in the headings to various subdivisions, by striking "DEPORTATION" and "DEPORTATION" and inserting "REMOVAL" and "REMOVAL", respectively.

(11) Section 244A(a)(1)(A) (8 U.S.C. 1254a(a)(1)(A)), before redesignation as section 244 by subsection (b)(8), is amended—

(A) in subsection (a)(1)(A), by striking "deport" and inserting "remove", and

(B) in subsection (e), by striking "SUSPENSION OF DEPORTATION" and inserting "CANCELLATION OF REMOVAL".

(12) Section 254 (8 U.S.C. 1284) is amended by striking "deport" each place it appears and inserting "remove".

(13) Section 273(d) (8 U.S.C. 1323(d)) is repealed.

(14)(A) Section 276 (8 U.S.C. 1326) is amended by striking "DEPORTED" and inserting "REMOVED".

(B) The item in the table of contents relating to such section is amended by striking "deported" and inserting "removed".

(15) Section 318 (8 U.S.C. 1429) is amended by striking "suspending" and inserting "canceling".

(16) Section 301(a) of the Immigration Act of 1990 is amended by striking "DEPORTATION" and inserting "REMOVAL".

*(17) The heading of section 130005 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "**DEPORTATION**" and inserting "**REMOVAL**".*

(18) Section 9 of the Peace Corps Act (22 U.S.C. 2508) is amended by striking "deported" and all that follows through "Deportation" and inserting "removed pursuant to chapter 4 of title II of the Immigration and Nationality Act".

(19) Section 8(c) of the Foreign Agents Registration Act (22 U.S.C. 618(c)) is amended by striking "deportation" and all that follows and inserting "removal pursuant to chapter 4 of title II of the Immigration and Nationality Act.".

(f) REVISION OF REFERENCES TO ENTRY.—

(1) The following provisions are amended by striking "entry" and inserting "admission" each place it appears:

(A) Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)).

(B) Section 101(a)(30) (8 U.S.C. 1101(a)(30)).

(C) Section 212(a)(2)(D) (8 U.S.C. 1182(a)(2)(D)).

(D) Section 212(a)(6)(C)(i) (8 U.S.C. 1182(a)(6)(C)(i)).

(E) Section 212(h)(1)(A)(i) (8 U.S.C. 1182(h)(1)(A)(i)).

(F) Section 212(j)(1)(D) (8 U.S.C. 1182(j)(1)(D)).

(G) Section 214(c)(2)(A) (8 U.S.C. 1184(c)(2)(A)).

(H) Section 214(d) (8 U.S.C. 1184(d)).

(I) Section 216(b)(1)(A)(i) (8 U.S.C. 1186a(b)(1)(A)(i)).

(J) Section 216(d)(1)(A)(i)(III) (8 U.S.C. 1186a(d)(1)(A)(i)(III)).

(K) Subsection (b) of section 240 (8 U.S.C. 1230), before redesignation as section 240C by section 304(a)(2).

(L) Subsection (a)(1)(G) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(M) Subsection (a)(1)(H) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), other than the last time it appears.

(N) Paragraphs (2) and (4) of subsection (a) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2).

(O) Section 245(e)(3) (8 U.S.C. 1255(e)(3)).

(P) Section 247(a) (8 U.S.C. 1257(a)).

(Q) Section 601(c)(2) of the Immigration Act of 1990.

(2) The following provisions are amended by striking "enter" and inserting "be admitted":

(A) Section 204(e) (8 U.S.C. 1154(e)).

(B) Section 221(h) (8 U.S.C. 1201(h)).

(C) Section 245(e)(2) (8 U.S.C. 1255(e)(2)).

(3) The following provisions are amended by striking "enters" and inserting "is admitted to":

(A) Section 212(j)(1)(D)(ii) (8 U.S.C. 1154(e)).

(B) Section 214(c)(5)(B) (8 U.S.C. 1184(c)(5)(B)).

(4) Subsection (a) of section 238 (8 U.S.C. 1228), before redesignation as section 233 by section 308(b)(4), is amended by striking "entry and inspection" and inserting "inspection and admission".

(5) Subsection (a)(1)(H)(ii) of section 241 (8 U.S.C. 1251), before redesignation as section 237 by section 305(a)(2), is amended by striking "at entry".

(6) Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) is amended by striking "that the entry", "given entry into", and "entering" and inserting "that the admission", "admitted to", and "admitted to".

(7) Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) is amended by striking "entry" and inserting "admission".

(g) CONFORMING REFERENCES TO REORGANIZED SECTIONS.—

(1) REFERENCES TO SECTIONS 232, 234, 238, 239, 240, 241, 242A, AND 244A.—Any reference in law in effect on the day before the date of the enactment of this Act to section 232, 234, 238, 239, 240, 241, 242A, or 244A of the Immigration and Nationality Act (or a subdivision of such section) is deemed, as of the title III–A effective date, to refer to section 232(a), 232(b), 233, 234, 234A, 237, 238, or 244 of such Act (or the corresponding subdivision of such section), as redesignated by this subtitle. Any reference in law to section 241 (or a subdivision of such section) of the Immigration and Nationality Act in an amendment made by a subsequent subtitle of this title is deemed a reference (as of the title III–A effective date) to section 237 (or the corresponding subdivision of such section), as redesignated by this subtitle.

(2) REFERENCES TO SECTION 106.—

(A) Sections 242A(b)(3) and 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3), 1252a(c)(3)(A)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), are each amended by striking "106" and inserting "242".

(B) Sections 210(e)(3)(A) and 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A), 1255a(f)(4)(A)) are amended by inserting "(as in effect before October 1, 1996)" after "106".

(C) Section 242A(c)(3)(A)(iii) (8 U.S.C. 1252a(c)(3)(A)(iii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "106(a)(1)" and inserting "242(b)(1)".

(3) REFERENCES TO SECTION 236.—

(A) Sections 205 and 209(a)(1) (8 U.S.C. 1155, 1159(a)(1)) are each amended by striking "236" and inserting "240".

(B) Section 4113(c) of title 18, United States Code, is amended by striking "1226 of title 8, United States Code" and inserting "240 of the Immigration and Nationality Act".

(4) REFERENCES TO SECTION 237.—

(A) Section 209(a)(1) (8 U.S.C. 1159(a)(1)) is amended by striking "237" and inserting "241".

(B) Section 212(d)(7) (8 U.S.C. 1182(d)(7)) is amended by striking "237(a)" and inserting "241(c)".

(C) Section 280(a) (8 U.S.C. 1330(a)) is amended by striking "237, 239, 243" and inserting "234, 243(c)(2)".

(5) REFERENCES TO SECTION 242.—

(A)(i) Sections 214(d), 252(b), and 287(f)(1) (8 U.S.C. 1184(d), 1282(b), 1357(f)(1)) are each amended by striking "242" and inserting "240".

(ii) Subsection (c)(4) of section 242A (8 U.S.C. 1252a), as amended by section 851(b)(13) but before redesignation as section 238 by subsection (b)(5), are each amended by striking "242" and inserting "240".

(iii) Section 245A(a)(1)(B) (8 U.S.C. 1255a(a)(1)(B)) is amended by inserting "(as in effect before October 1, 1996)" after "242".

(iv) Section 4113 of title 18, United States Code, is amended—

(I) in subsection (a), by striking "section 1252(b) or section 1254(e) of title 8, United States Code," and inserting "section 240B of the Immigration and Nationality Act"; and

(II) in subsection (b), by striking "section 1252 of title 8, United States Code," and inserting "section 240 of the Immigration and Nationality Act".

(B) Section 130002(a) of Public Law 103–322, as amended by section 345, is amended by striking "242(a)(3)(A)" and inserting "236(d)".

(C) Section 242A(b)(1) (8 U.S.C. 1252a(b)(1)), before redesignation as section 238 by section 308(b)(5), is amended by striking "242(b)" and inserting "240".

(D) Section 242A(c)(2)(D)(ii) (8 U.S.C. 1252a(c)(2)(D)(ii)), as amended by section 851(b)(14) but before redesignation as section 238 by subsection (b)(5), is amended by striking "242(b)" and inserting "240".

(E) Section 1821(e) of title 28, United States Code, is amended by striking "242(b)" and inserting "240".

(F) Section 130007(a) of Public Law 103–322 is amended by striking "242(i)" and inserting "239(d)".

(G) Section 20301(c) of Public Law 103–322 is amended by striking "242(j)(5)" and "242(j)" and inserting "241(h)(5)" and "241(h)", respectively.

(6) REFERENCES TO SECTION 242B.—

(A) Section 303(d)(2) of the Immigration Act of 1990 is amended by striking "242B" and inserting "240(b)(5)".

(B) Section 545(g)(1)(B) of the Immigration Act of 1990 is amended by striking "242B(a)(4)" and inserting "239(a)(4)".

(7) REFERENCES TO SECTION 243.—

(A) Section 214(d) (8 U.S.C. 1184(d)) is amended by striking "243" and inserting "241".

(B) Section 504(k)(2) (8 U.S.C. 1534(k)(2)) is amended by striking "withholding of deportation under section 243(h)" and inserting "by withholding of removal under section 241(b)(3)".

(C)(i) Section 315(c) of the Immigration Reform and Control Act of 1986 is amended by striking "243(g)" and "1253(g)" and inserting "243(d)" and "1253(d)" respectively.

(ii) Section 702(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 is amended by striking "243(g)" and inserting "243(d)".

(iii) Section 903(b) of Public Law 100–204 is amended by striking "243(g)" and inserting "243(d)".

(D)(i) Section 6(f)(2)(F) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is amended by striking "243(h)" and inserting "241(b)(3)".

(ii) Section 214(a)(5) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(a)(5)) is amended by striking "243(h)" and inserting "241(b)(3)".

(E)(i) Subsection (c)(2)(B)(ii) of section 244A (8 U.S.C. 1254a), before redesignated as section 244 by section 308(b)(7), is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(ii) Section 301(e)(2) of the Immigration Act of 1990 is amended by striking "243(h)(2)" and inserting "208(b)(2)(A)".

(F) Section 316(f) (8 U.S.C. 1427(f)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i) through (v) of section 208(b)(2)(A)".

(8) REFERENCES TO SECTION 244.—

(A)(i) Section 201(b)(1)(D) (8 U.S.C. 1151(b)(1)(D)) and subsection (e) of section 244A (8 U.S.C. 1254a), before redesignation as section 244 by section 308(b)(7), are each amended by striking "244(a)" and inserting "240A(a)".

(ii) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(a)" and inserting "240A(a)".

(B) Section 504(k)(3) (8 U.S.C. 1534(k)(3)) is amended by striking "suspension of deportation under subsection (a) or (e) of section 244" and inserting "cancellation of removal under section 240A".

(C) Section 304(c)(1)(B) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Public Law 102–232) is amended by striking "244(b)(2)" and inserting "240A(b)(2)".

(D) Section 364(a)(2) of this Act is amended by striking "244(a)(3)" and inserting "240A(a)(3)".

(9) REFERENCES TO CHAPTER 5.—

(A) Sections 266(b), 266(c), and 291 (8 U.S.C. 1306(b), 1306(c), 1361) are each amended by striking "chapter 5" and inserting "chapter 4".

(B) Section 6(b) of the Act of August 1, 1956 (50 U.S.C. 855(b)) is amended by striking "chapter 5, title II, of the Immigration and Nationality Act (66 Stat. 163)" and inserting "chapter 4 of title II of the Immigration and Nationality Act".

(10) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS FOR NEWLY ADDED PROVISIONS.—

(A) Section 212(h), as amended by section 301(h), is amended by striking "section 212(c)" and inserting "paragraphs (1) and (2) of section 240A(a)".

(B) Section 245(c)(6), as amended by section 332(d), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(C) Section 249(d), as amended by section 332(e), is amended by striking "241(a)(4)(B)" and inserting "237(a)(4)(B)".

(D) Section 274C(d)(7), as added by section 212(d), is amended by striking "withholding of deportation under section 243(h)" and inserting "withholding of removal under section 241(b)(3)".

(E) Section 3563(b)(21) of title 18, United States Code, as inserted by section 374(b), is amended by striking "242A(d)(5)" and inserting "238(d)(5)".

(F) Section 130007(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended by section 671(a)(6), is amended by striking "242A(a)(3)" and inserting "238(a)(3)".

(G) Section 386(b) of this Act is amended by striking "excludable" and "EXCLUDABLE" and inserting "inadmissible" and "INADMISSIBLE", respectively, each place each appears.

(H) Subsections (a), (c), (d), (g), and (h) of section 440 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), as amended by section 306(d), are amended by striking "241(a)(2)(A)(ii)" and "241(a)(2)(A)(i)" and inserting "237(a)(2)(A)(ii)" and "237(a)(2)(A)(i)", respectively .

SEC. 309. EFFECTIVE DATES; TRANSITION.

(a) IN GENERAL.—Except as provided in this section and sections 303(b)(2), 306(c), 308(d)(2)(D), or 308(d)(5), this subtitle and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act (in this title referred to as the "title III–A effective date").

(b) PROMULGATION OF REGULATIONS.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III–A effective date.

(c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

(1) GENERAL RULE THAT NEW RULES DO NOT APPLY.—Subject to the succeeding provisions of this subsection, in the case of an alien who is in exclusion or deportation proceedings as of the title III–A effective date—

(A) the amendments made by this subtitle shall not apply, and

(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 or 242 and 242B of the Immigration and Nationality Act has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II of such Act (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act shall be valid as if provided under section 239 of such Act (as amended by this subtitle) to confer jurisdiction on the immigration judge.

(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinitiate proceedings under chapter 4 of title II the Immigration and Nationality Act (as amended by this subtitle). Any determination in the terminated proceeding shall not be binding in the reinitiated proceeding.

(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case described in paragraph (1) in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act, notwithstanding any provision of section 106 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act) to the contrary—

(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such in the same manner as they apply to judicial review of orders of deportation;

(B) a court may not order the taking of additional evidence under section 2347(c) of title 28, United States Code;

(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation;

(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed;

(E) there shall be no appeal of any discretionary decision under section 212(c), 212(h), 212(i), 244, or 245 of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act);

(F) service of the petition for review shall not stay the deportation of an alien pending the court's decision on the petition, unless the court orders otherwise; and

(G) there shall be no appeal permitted in the case of an alien who is inadmissible or deportable by reason of having committed a criminal offense covered in section 212(a)(2) or section 241(a)(2)(A)(iii), (B), (C), or (D) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), or any offense covered by section 241(a)(2)(A)(ii) of such Act (as in effect on such date) for which both predicate offenses are, without regard to their date of commission, otherwise covered by section 241(a)(2)(A)(i) of such Act (as so in effect).

(5) TRANSITIONAL RULE WITH REGARD TO SUSPENSION OF DEPORTATION.—Paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act (relating to continuous residence or physical presence) shall apply to notices to appear issued before, on, or after the date of the enactment of this Act.

(6) TRANSITION FOR CERTAIN FAMILY UNITY ALIENS.—The Attorney General may waive the application of section 212(a)(9) of the Immigration and Nationality Act, as inserted by section 301(b)(1), in the case of an alien who is provided benefits under the provisions of section 301 of the Immigration Act of 1990 (relating to family unity).

(7) LIMITATION ON SUSPENSION OF DEPORTATION.—The Attorney General may not suspend the deportation and adjust the status under section 244 of the Immigration and Nationality Act of more than 4,000 aliens in any fiscal year (beginning after the date of the enactment of this Act). The previous sentence shall apply regardless of when an alien applied for such suspension and adjustment.

(d) TRANSITIONAL REFERENCES.—For purposes of carrying out the Immigration and Nationality Act, as amended by this subtitle—

(1) any reference in section 212(a)(1)(A) of such Act to the term "inadmissible" is deemed to include a reference to the term "excludable", and

(2) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

(e) TRANSITION.—No period of time before the date of the enactment of this Act shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act (as amended by section 301(c)).

Subtitle B—Criminal Alien Provisions

SEC. 321. AMENDED DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section 441(e) of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104-132), is amended—

(1) in subparagraph (A), by inserting ", rape, or sexual abuse of a minor" after "murder";

(2) in subparagraph (D), by striking "$100,000" and inserting "$10,000";

(3) in subparagraphs (F), (G), (N), and (P), by striking "is at least 5 years" each place it appears and inserting "at least one year";

(4) in subparagraph (J), by striking "sentence of 5 years' imprisonment" and inserting "sentence of one year imprisonment";

(5) in subparagraph (K)(ii), by inserting "if committed" before "for commercial advantage";

(6) in subparagraph (L)—

(A) by striking "or" at the end of clause (i),

(B) by inserting "or" at the end of clause (ii), and

(C) by adding at the end the following new clause:

"(iii) section 601 of the National Security Act of 1947 (relating to protecting the identity of undercover agents);";

(7) in subparagraph (M), by striking "$200,000" each place it appears and inserting "$10,000";

(8) in subparagraph (N), by striking "for which the term" and all that follows and inserting the following: ", except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(9) in subparagraph (P), by striking "18 months" and inserting "12 months, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this Act";

(10) in subparagraph (R), by striking "for which a sentence of 5 years' imprisonment or more may be imposed" and inserting "for which the term of imprisonment is at least one year"; and

(11) in subparagraph (S), by striking "for which a sentence of 5 years' imprisonment or more may be imposed" and inserting "for which the term of imprisonment is at least one year".

(b) EFFECTIVE DATE OF DEFINITION.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after the date of enactment of this paragraph.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions taken on or after the date of the enactment of this Act, regardless of when the conviction occurred, and shall apply under section 276(b) of the Immigration and Nationality Act only to violations of section 276(a) of such Act occurring on or after such date.

SEC. 322. DEFINITION OF CONVICTION AND TERM OF IMPRISONMENT.

(a) DEFINITION.—

(1) IN GENERAL.—Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(48)(A) The term 'conviction' means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where—

"(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and

"(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

"(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by striking "imposed (regardless of any suspension of imprisonment)" each place it appears in subparagraphs (F), (G), (N), and (P).

(B) Section 212(a)(2)(B) (8 U.S.C. 1182(a)(2)(B)) is amended by striking "actually imposed".

(b) REFERENCE TO PROOF PROVISIONS.—For provisions relating to proof of convictions, see subparagraphs (B) and (C) of section 240(c)(3) of the Immigration and Nationality Act, as inserted by section 304(a)(3).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions and sentences entered before, on, or after the date of the enactment of this Act. Subparagraphs (B) and (C) of section 240(c)(3) of the Immigration and Nationality Act, as inserted by section 304(a)(3), shall apply to proving such convictions.

SEC. 323. AUTHORIZING REGISTRATION OF ALIENS ON CRIMINAL PROBATION OR CRIMINAL PAROLE.

Section 263(a) (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or criminal parole within the United States, and (6)".

SEC. 324. PENALTY FOR REENTRY OF DEPORTED ALIENS.

(a) IN GENERAL.—Section 276(a)(1) (8 U.S.C. 1326(a)(1)) is amended to read as follows:

"(1) has been arrested and deported, has been excluded and deported, or has departed the United States while an order of exclusion or deportation is outstanding, and thereafter".

(b) TREATMENT OF STIPULATIONS.—The last sentence of section 276(b) (8 U.S.C. 1326(b)) is amended by inserting "(or not during)" after "during".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures that occurred before, on, or after the date of the enactment of this Act, but only with respect to entries (and attempted entries) occurring on or after such date.

SEC. 325. CHANGE IN FILING REQUIREMENT.

Section 2424 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph of subsection (a)—

(A) by striking "alien" each place it appears;

(B) by inserting after "individual" the first place it appears the following: ", knowing or in reckless disregard of the fact that the individual is an alien"; and

(C) by striking "within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic";

(2) in the second undesignated paragraph of subsection (a)—

(A) by striking "thirty" and inserting "five business"; and

(B) by striking "within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic,"; and

(3) in the text following the third undesignated paragraph of subsection (a), by striking "two" and inserting "10".

SEC. 326. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Subsection (a) of section 130002 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), as amended by section 432 of Public Law 104-132, is amended to read as follows:

"(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to removal by reason of their conviction of aggravated felonies, subject to prosecution under section 275 of such Act, not lawfully present in the United States, or otherwise removable. Such system shall include providing for recording of fingerprint records of aliens who have been previously arrested and removed into appropriate automated fingerprint identification systems.".

SEC. 327. APPROPRIATIONS FOR CRIMINAL ALIEN TRACKING CENTER.

Section 130002(b) of the Violent Crime Control and Law Enforcement Act of 1994 (8 U.S.C. 1252 note) is amended—

(1) by inserting "and" after "1996;", and

(2) by striking paragraph (2) and all that follows through the period at the end and inserting the following:

"(2) $5,000,000 for each of fiscal years 1997 through 2001.".

SEC. 328. PROVISIONS RELATING TO STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) MODIFICATION OF AUTHORITY.—

(1) IN GENERAL.—Section 241(i), as redesignated by section 306(a)(1), is amended—

(A) in paragraph (3)(A), by striking "felony and sentenced to a term of imprisonment" and inserting "felony or two or more misdemeanors", and

(B) by adding at the end the following new paragraph:

"(6) To the extent of available appropriations, funds otherwise made available under this section with respect to a State (or political subdivision, including a municipality) for incarceration of an undocumented criminal alien may, at the discretion of the recipient of the funds, be used for the costs of imprisonment of such alien in a State, local, or municipal prison or jail.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply beginning with fiscal year 1997.

(b) SENSE OF THE CONGRESS WITH RESPECT TO PROGRAM.—

(1) FINDINGS.—The Congress finds as follows:

(A) Of the $130,000,000 appropriated in fiscal year 1995 for the State Criminal Alien Assistance Program, the Department of Justice disbursed the first $43,000,000 to States on October 6, 1994, 32 days before the 1994 general election, and then failed to disburse the remaining $87,000,000 until January 31, 1996, 123 days after the end of fiscal year 1995.

(B) While H.R. 2880, the continuing appropriation measure funding certain operations of the Federal Government from January 26, 1996 to March 15, 1996, included $66,000,000 to reimburse States for the cost of incarcerating documented illegal immigrant felons, the Department of Justice failed to disburse any of the funds to the States during the period of the continuing appropriation.

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(A) the Department of Justice was disturbingly slow in disbursing fiscal year 1995 funds under the State Criminal Alien Assistance Program to States after the initial grants were released just prior to the 1994 election; and

(B) the Attorney General should make it a high priority to expedite the disbursement of Federal funds intended to reimburse States for the cost of incarcerating illegal immigrants, aiming for all State Criminal Alien Assistance Program funds to be disbursed during the fiscal year for which they are appropriated.

SEC. 329. DEMONSTRATION PROJECT FOR IDENTIFICATION OF ILLEGAL ALIENS IN INCARCERATION FACILITY OF ANAHEIM, CALIFORNIA.

(a) AUTHORITY.—The Attorney General shall conduct a project demonstrating the feasibility of identifying, from among the individuals who are incarcerated in local governmental prison facilities prior to arraignment on criminal charges, those individuals who are aliens unlawfully present in the United States.

(b) DESCRIPTION OF PROJECT.—The project authorized by subsection (a) shall include—

(1) the detail to incarceration facilities within the city of Anaheim, California and the county of Ventura, California, of an employee of the Immigration and Naturalization Service who has expertise in the identification of aliens unlawfully in the United States, and

(2) provision of funds sufficient to provide for—

(A) access for such employee to records of the Service necessary to identify such aliens, and

(B) in the case of an individual identified as such an alien, pre-arraignment reporting to the court regarding the Service's intention to remove the alien from the United States.

(c) TERMINATION.—The authority under this section shall cease to be effective 6 months after the date of the enactment of this Act.

SEC. 330. PRISONER TRANSFER TREATIES.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—(1) Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of enactment of this Act, bilateral prisoner transfer treaties, providing for the incarceration, in the country of the alien's nationality, of any alien who—

(A) is a national of a country that is party to such a treaty; and

(B) has been convicted of a criminal offense under Federal or State law and who—

(i) is not in lawful immigration status in the United States, or

(ii) on the basis of conviction for a criminal offense under Federal or State law, or on any other basis, is subject to deportation or removal under the Immigration and Nationality Act,

for the duration of the prison term to which the alien was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such alien pursuant to parole procedures of that country.

(2) In entering into negotiations under paragraph (1), the President may consider providing for appropriate compensation, subject to the availability of appropriations, in cases where the United States is able to independently verify the adequacy of the sites where aliens will be imprisoned and the length of time the alien is actually incarcerated in the foreign country under such a treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the focus of negotiations for such agreements should be—

(A) to expedite the transfer of aliens unlawfully in the United States who are (or are about to be) incarcerated in United States prisons,

(B) to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts,

(C) to eliminate any requirement of prisoner consent to such a transfer, and

(D) to allow the Federal Government or the States to keep their original prison sentences in force so that transferred prisoners who return to the United States prior to the completion of their original United States sentences can be returned to custody for the balance of their prisons sentences;

(2) the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of aliens described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such aliens in the United States; and

(3) no new treaty providing for the transfer of aliens from Federal, State, or local incarceration facilities to a foreign incarceration facility should permit the alien to refuse the transfer.

(c) PRISONER CONSENT.—Notwithstanding any other provision of law, except as required by treaty, the transfer of an alien from a Federal, State, or local incarceration facility under an agreement of the type referred to in subsection (a) shall not require consent of the alien.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate stating whether each prisoner transfer treaty to which the United States is a party has been effective in the preceding 12 months in bringing about the return of deportable incarcerated aliens to the country of which they are nationals and in ensuring that they serve the balance of their sentences.

(e) TRAINING FOREIGN LAW ENFORCEMENT PERSONNEL.—(1) Subject to paragraph (2), the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training an appropriate number of foreign law enforcement personnel, and shall make appointments of foreign law enforcement personnel to such academies, as necessary to further the following United States law enforcement goals:

(A) Preventing of drug smuggling and other cross-border criminal activity.

(B) Preventing illegal immigration.

(C) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or the appropriate duty or tariff for which has not been paid).

(2) The appointments described in paragraph (1) shall be made only to the extent there is capacity in such academies beyond what is required to train United States citizens needed in the Border Patrol and Customs Service, and only of personnel from a country with which the prisoner transfer treaty has been stated to be effective in the most recent report referred to in subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 331. PRISONER TRANSFER TREATIES STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report that describes the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States in removing from the United States such incarcerated nationals.

(b) USE OF TREATY.—The report under subsection (a) shall include—

(1) the number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the treaties;

(2) the number of aliens described in paragraph (1) who have been transferred pursuant to the treaties;

(3) the number of aliens described in paragraph (2) who have been incarcerated in full compliance with the treaties;

(4) the number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the treaties; and

(5) the number of aliens described in paragraph (4) who are incarcerated in Federal, State, and local penal institutions in the United States.

(c) RECOMMENDATIONS.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the treaties. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address—

(1) changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States;

(2) changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States;

(3) changes in the treaties that may be necessary to increase the number of aliens convicted of criminal offenses who may be transferred pursuant to the treaties;

(4) methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the treaties;

(5) any recommendations by appropriate officials of the appropriate government agencies of such countries regarding programs to achieve the goals of, and ensure full compliance with, the treaties;

(6) whether the recommendations under this subsection require the renegotiation of the treaties, and

(7) the additional funds required to implement each recommendation under this subsection.

SEC. 332. ANNUAL REPORT ON CRIMINAL ALIENS.

Not later than 12 months after the date of the enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

(2) the number of illegal aliens convicted of felonies in any Federal or State court, but not sentenced to incarceration, in the year before the report was submitted, stating the number convicted for each type of offense;

(3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal; and

(4) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 333. PENALTIES FOR CONSPIRING WITH OR ASSISTING AN ALIEN TO COMMIT AN OFFENSE UNDER THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(a) REVIEW OF GUIDELINES.—Not later than 6 months after the date of the enactment of this Act, the United States Sentencing Commission shall conduct a review of the guidelines applicable to an offender who conspires with, or aids or abets, a person who is not a citizen or national of the United States in committing any offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

(b) REVISION OF GUIDELINES.—Following such review, pursuant to section 994(p) of title 28, United States Code, the Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines to ensure an appropriately stringent sentence for such offenders.

SEC. 334. ENHANCED PENALTIES FOR FAILURE TO DEPART, ILLEGAL REENTRY, AND PASSPORT AND VISA FRAUD.

(a) FAILING TO DEPART.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under section 242(e) and 276(b) of the Immigration and Nationality Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the amendments made by section 130001 of the Violent Crime Control and Law Enforcement Act of 1994.

(b) PASSPORT AND VISA OFFENSES.—The United States Sentencing Commission shall promptly promulgate, pursuant to section 994 of title 28, United States Code, amendments to the sentencing guidelines to make appropriate increases in the base offense level for offenses under chapter 75 of title 18, United States Code to reflect the amendments made by section 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

Subtitle C—Revision of Grounds for Exclusion and Deportation

SEC. 341. PROOF OF VACCINATION REQUIREMENT FOR IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(1)(A) (8 U.S.C. 1182(a)(1)(A)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(2) by inserting after clause (i) the following new clause:

"(ii) who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices,".

(b) WAIVER.—Section 212(g) (8 U.S.C. 1182(g)) is amended by striking ", or" at the end of paragraph (1) and all that follows and inserting a semicolon and the following:

"in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

"(2) subsection (a)(1)(A)(ii) in the case of any alien—

"(A) who receives vaccination against the vaccine-preventable disease or diseases for which the alien has failed to present documentation of previous vaccination,

"(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42 of the Code of Federal Regulations) certifies, according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate, or

"(C) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's religious beliefs or moral convictions; or

"(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for immigrant visas or for adjustment of status filed after September 30, 1996.

SEC. 342. INCITEMENT OF TERRORIST ACTIVITY AND PROVISION OF FALSE DOCUMENTATION TO TERRORISTS AS A BASIS FOR EXCLUSION FROM THE UNITED STATES.

(a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) by redesignating subclauses (III) and (IV) of clause (i) as subclauses (IV) and (V), respectively;

(2) by inserting after subclause (II) of clause (i) the following new subclause:

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity,"; and

(3) in clause (iii)(III), by inserting "documentation or" before "identification";

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to incitement regardless of when it occurs.

SEC. 343. CERTIFICATION REQUIREMENTS FOR FOREIGN HEALTH-CARE WORKERS.

Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—Any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is excludable unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing or certification examination, the alien has passed such a test or has passed such an examination.

For purposes of clause (ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.".

SEC. 344. REMOVAL OF ALIENS FALSELY CLAIMING UNITED STATES CITIZENSHIP.

(a) EXCLUSION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii), and

(2) by inserting after clause (i) the following new clause:

"(ii) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE FALSELY CLAIMED UNITED STATES CITIZENSHIP.—Section 241(a)(3) (8 U.S.C. 1251(a)(3)) is amended by adding at the end the following new subparagraph:

"(D) FALSELY CLAIMING CITIZENSHIP.—Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any Federal or State law is deportable.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to representations made on or after the date of the enactment of this Act.

SEC. 345. WAIVER OF EXCLUSION AND DEPORTATION GROUND FOR CERTAIN SECTION 274C VIOLATORS.

(a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C. 1182) is amended—

(1) by amending subparagraph (F) of subsection (a)(6) to read as follows:

"(F) SUBJECT OF CIVIL PENALTY.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(12).'; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(12) The Attorney General may, in the discretion of the Attorney General for humanitarian purposes or to assure family unity, waive application of clause (i) of subsection (a)(6)(F)—

"(A) in the case of an alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation or removal and who is otherwise admissible to the United States as a returning resident under section 211(b), and

"(B) in the case of an alien seeking admission or adjustment of status under section 201(b)(2)(A) or under section 203(a),

if no previous civil money penalty was imposed against the alien under section 274C and the offense was committed solely to assist, aid, or support the alien's spouse or child (and not another individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this paragraph.".

(b) GROUND OF DEPORTATION.—Subparagraph (C) of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesignation by section 305(a)(2), is amended to read as follows:

"(C) DOCUMENT FRAUD.—

"(i) IN GENERAL.—An alien who is the subject of a final order for violation of section 274C is deportable.

"(ii) WAIVER AUTHORIZED.—The Attorney General may waive clause (i) in the case of an alien lawfully admitted for permanent residence if no previous civil money penalty was imposed against the alien under section 274C and the offense was incurred solely to assist, aid, or support the alien's spouse or child (and no other individual). No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this clause.".

SEC. 346. INADMISSIBILITY OF CERTAIN STUDENT VISA ABUSERS.

(a) IN GENERAL.—Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subparagraph:

"(G) STUDENT VISA ABUSERS.—An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) and who violates a term or condition of such status under section 214(l) is excludable until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act after the end of the 60-day period beginning on the date of the enactment of this Act, including aliens whose status as such a nonimmigrant is extended after the end of such period.

SEC. 347. REMOVAL OF ALIENS WHO HAVE UNLAWFULLY VOTED.

(a) EXCLUSION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(b), is amended by adding at the end the following new subparagraph:

"(D) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is excludable.".

(b) DEPORTATION OF ALIENS WHO HAVE UNLAWFULLY VOTED.—Section 241(a) (8 U.S.C. 1251(a)), before redesignation by section 305(a)(2), is amended by adding at the end the following new paragraph:

"(6) UNLAWFUL VOTERS.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to voting occurring before, on, or after the date of the enactment of this Act.

SEC. 348. WAIVERS FOR IMMIGRANTS CONVICTED OF CRIMES.

(a) IN GENERAL.—Section 212(h) (8 U.S.C. 1182(h)) is amended by adding at the end the following: "No waiver shall be granted under this subsection in the case of an alien who has previously been admitted to the United States as an alien lawfully admitted for permanent residence if either since the date of such admission the alien has been convicted of an aggravated felony or the alien has not lawfully resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on the date of the enactment of this Act and shall apply in the case of any alien who is in exclusion or deportation proceedings as of such date unless a final administrative order in such proceedings has been entered as of such date.

SEC. 349. WAIVER OF MISREPRESENTATION GROUND OF INADMISSIBILITY FOR CERTAIN ALIEN.

Subsection (i) of section 212 (8 U.S.C. 1182) is amended to read as follows:

"(i)(1) The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) of subsection (a)(6)(C) in the case of an immigrant who is the spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

"(2) No court shall have jurisdiction to review a decision or action of the Attorney General regarding a waiver under paragraph (1).".

SEC. 350. OFFENSES OF DOMESTIC VIOLENCE AND STALKING AS GROUND FOR DEPORTATION.

(a) IN GENERAL.—Section 241(a)(2) (8 U.S.C. 1251(a)(2)) is amended by adding at the end the following:

"(E) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN AND .—

"(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time after entry is convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is deportable. For purposes of this clause, the term 'crime of domestic violence' means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government.

"(ii) VIOLATORS OF PROTECTION ORDERS.—Any alien who at any time after entry is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is deportable. For purposes of this clause, the term 'protection order' means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions, or violations of court orders, occurring after the date of the enactment of this Act.

SEC. 351. CLARIFICATION OF DATE AS OF WHICH RELATIONSHIP REQUIRED FOR WAIVER FROM EXCLUSION OR DEPORTATION FOR SMUGGLING.

(a) EXCLUSION.—Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by inserting "an individual who at the time of such action was" after "aided only".

(b) DEPORTATION.—Section 241(a)(1)(E)(iii) (8 U.S.C. 1251(a)(1)(E)(iii)) is amended by inserting "an individual who at the time of the offense was" after "aided only".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for waivers filed before, on, or after the date of the enactment of this Act, but shall not apply to such an application for which a final determination has been made as of the date of the enactment of this Act.

SEC. 352. EXCLUSION OF FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID UNITED STATES TAXATION.

(a) IN GENERAL.—Section 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesignated by section 301(b) and as amended by section 347(a), is amended by adding at the end the following:

"(E) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO AVOID TAXATION.—Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is excludable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who renounce United States citizenship on and after the date of the enactment of this Act.

SEC. 353. REFERENCES TO CHANGES ELSEWHERE IN ACT.

(a) DEPORTATION FOR HIGH SPEED FLIGHT.—For provision making high speed flight from an immigration checkpoint subject to deportation, see section 108(c).

(b) INADMISSIBILITY OF ALIENS PREVIOUSLY REMOVED AND UNLAWFULLY PRESENT.—For provision making aliens previously removed and unlawfully present in the United States inadmissible, see section 301(b).

(c) INADMISSIBILITY OF ILLEGAL ENTRANTS.—For provision revising the ground of inadmissibility for illegal entrants and immigration violators, see section 301(c).

(d) DEPORTATION FOR VISA VIOLATORS.—For provision revising the ground of deportation for illegal entrants, see section 301(d).

(e) LABOR CERTIFICATIONS FOR PROFESSIONAL ATHLETES.—For provision providing for continued validity of labor certifications and classification petitions for professional athletes, see section 624.

Subtitle D—Changes in Removal of Alien Terrorist Provisions

SEC. 354. TREATMENT OF CLASSIFIED INFORMATION.

(a) LIMITATION ON PROVISION OF SUMMARIES; USE OF SPECIAL ATTORNEYS IN CHALLENGES TO CLASSIFIED INFORMATION.—

(1) NO PROVISION OF SUMMARY IN CERTAIN CASES.—Section 504(e)(3)(D) (8 U.S.C. 1534(e)(3)(D)) is amended—

(A) in clause (ii), by inserting before the period at the end the following: "unless the judge makes the findings under clause (iii)", and

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

"(iii) FINDINGS.—The findings described in this clause are, with respect to an alien, that—

"(I) the continued presence of the alien in the United States would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person, and

"(II) the provision of the summary would likely cause serious and irreparable harm to the national security or death or serious bodily injury to any person.".

(2) SPECIAL CHALLENGE PROCEDURES.—Section 504(e)(3) (8 U.S.C. 1534(e)(3)) is amended by adding at the end the following new subparagraphs:

"(E) CONTINUATION OF HEARING WITHOUT SUMMARY.—If a judge makes the findings described in subparagraph (D)(iii)—

"(i) if the alien involved is an alien lawfully admitted for permanent residence, the procedures described in subparagraph (F) shall apply; and

"(ii) in all cases the special removal hearing shall continue, the Department of Justice shall cause to be delivered to the alien a statement that no summary is possible, and the classified information submitted in camera and ex parte may be used pursuant to this paragraph.

"(F) SPECIAL PROCEDURES FOR ACCESS AND CHALLENGES TO CLASSIFIED INFORMATION BY SPECIAL ATTORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

"(i) IN GENERAL.—The procedures described in this subparagraph are that the judge (under rules of the removal court) shall designate a special attorney to assist the alien—

"(I) by reviewing in camera the classified information on behalf of the alien, and

"(II) by challenging through an in camera proceeding the veracity of the evidence contained in the classified information.

"(ii) RESTRICTIONS ON DISCLOSURE.—A special attorney receiving classified information under clause (i)—

"(I) shall not disclose the information to the alien or to any other attorney representing the alien, and

"(II) who discloses such information in violation of subclause (I) shall be subject to a fine under title 18, United States Code, imprisoned for not less than 10 years nor more than 25 years, or both.".

(3) APPEALS.—Section 505(c) (8 U.S.C. 1535(c)) is amended—

(A) in paragraph (1), by striking "The decision" and inserting "Subject to paragraph (2), the decision";

(B) in paragraph (3)(D), by inserting before the period at the end the following: ", except that in the case of a review under paragraph (2) in which an alien lawfully admitted for permanent residence was denied a written summary of classified information under section 504(c)(3), the Court of Appeals shall review questions of fact de novo";

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(D) by inserting after paragraph (1) the following new paragraph:

"(2) AUTOMATIC APPEALS IN CASES OF PERMANENT RESIDENT ALIENS IN WHICH NO SUMMARY PROVIDED.—

"(A) IN GENERAL.—Unless the alien waives the right to a review under this paragraph, in any case involving an alien lawfully admitted for permanent residence who is denied a written summary of classified information under section 504(e)(3) and with respect to which the procedures described in section 504(e)(3)(F) apply, any order issued by the judge shall be reviewed by the Court of Appeals for the District of Columbia Circuit.

"(B) USE OF SPECIAL ATTORNEY.—With respect to any issue relating to classified information that arises in such review, the alien shall be represented only by the special attorney designated under section 504(e)(3)(F)(i) on behalf of the alien.".

(4) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—Section 502 (8 U.S.C. 1532) is amended by adding at the end the following new subsection:

"(e) ESTABLISHMENT OF PANEL OF SPECIAL ATTORNEYS.—The removal court shall provide for the designation of a panel of attorneys each of whom—

"(1) has a security clearance which affords the attorney access to classified information, and

"(2) has agreed to represent permanent resident aliens with respect to classified information under section 504(e)(3) in accordance with (and subject to the penalties under) this title.".

(5) DEFINITION OF SPECIAL ATTORNEY.—Section 501 (8 U.S.C. 1531) is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(7) the term 'special attorney' means an attorney who is on the panel established under section 502(e).".

(b) OTHER PROVISIONS RELATING TO CLASSIFIED INFORMATION.—

(1) INTRODUCTION OF CLASSIFIED INFORMATION.—Section 504(e) (8 U.S.C. 1534(e)) is amended—

(A) in paragraph (1)—

(i) by inserting after "(A)" the following: "the Government is authorized to use in a removal proceedings the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) without regard to subsections (c), (e), (f), (g), and (h) of section 106 of that Act and", and

(ii) by striking "the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)" and inserting "such Act"; and

(B) by striking the period at the end of paragraph (3)(A) and inserting the following: "and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to this paragraph. Notwithstanding the previous sentence, the Department of Justice may, in its discretion and, in the case of classified information, after coordination with the originating agency, elect to introduce such evidence in open session.".

(2) MAINTENANCE OF CONFIDENTIALITY OF CLASSIFIED INFORMATION IN ARGUMENTS.—Section 504(f) (8 U.S.C. 1534(f)) is amended by adding at the end the following: "The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.".

(3) MAINTENANCE OF CONFIDENTIALITY OF CLASSIFIED INFORMATION IN ORDERS.—Section 504(j) (8 U.S.C. 1534(j)) is amended by adding at the end the following: "Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (e) shall not be made available to the alien or the public.".

SEC. 355. EXCLUSION OF REPRESENTATIVES OF TERRORISTS ORGANIZATIONS.

Section 212(a)(3)(B)(i)(IV) (8 U.S.C. 1182(a)(3)(B)(i)(VI)), as inserted by section 411(1)(C) of Public Law 104–132, is amended by inserting "which the alien knows or should have known is a terrorist organization" after "219,".

SEC. 356. STANDARD FOR JUDICIAL REVIEW OF TERRORIST ORGANIZATION DESIGNATIONS.

Section 219(b)(3) (8 U.S.C. 1189(b)(3)), as added by section 302(a) of Public Law 104–132, is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon, and

(3) by adding at the end the following:

"(D) lacking substantial support in the administrative record taken as a whole or in classified information submitted to the court under paragraph (2), or

"(E) not in accord with the procedures required by law.".

SEC. 357. REMOVAL OF ANCILLARY RELIEF FOR VOLUNTARY DEPARTURE.

Section 504(k) (8 U.S.C. 1534(k)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) voluntary departure under section 244(e);".

SEC. 358. EFFECTIVE DATE.

The amendments made by this subtitle shall be effective as if included in the enactment of subtitle A of title IV of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132).

Subtitle E—Transportation of Aliens

SEC. 361. DEFINITION OF STOWAWAY.

(a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C. 1101(a)), as amended by section 322(a)(1), is amended by adding at the end the following new paragraph:

"(49) The term 'stowaway' means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 362. TRANSPORTATION CONTRACTS.

(a) COVERAGE OF NONCONTIGUOUS TERRITORY.—Section 238 (8 U.S.C. 1228), before redesignation as section 233 under section 308(b)(4), is amended—

(1) in the heading, by striking "CONTIGUOUS", and

(2) by striking "contiguous" each place it appears in subsections (a), (b), and (d).

(b) COVERAGE OF RAILROAD TRAIN.—Subsection (d) of such section is further amended by inserting "or railroad train" after "aircraft".

Subtitle F—Additional Provisions

SEC. 371. IMMIGRATION JUDGES AND COMPENSATION.

(a) DEFINITION OF TERM.—Paragraph (4) of section 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

"(4) The term 'immigration judge' means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 240. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.".

(b) SUBSTITUTION FOR TERM "SPECIAL INQUIRY OFFICER".—The Immigration and Nationality Act is amended by striking "a special inquiry officer", "A special inquiry officer", "special inquiry officer", and "special inquiry officers" and inserting "an immigration judge", "An immigration judge", "immigration judge", and "immigration judges", respectively, each place it appears in the following sections:

(1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)), before its repeal by section 306(c).

(2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

(3) Section 234 (8 U.S.C. 1224), before redesignation by section 308(b).

(4) Section 235 (8 U.S.C. 1225), before amendment by section 302(a).

(5) Section 236 (8 U.S.C. 1226), before amendment by section 303.

(6) Section 242(b) (8 U.S.C. 1252(b)), before amendment by section 306(a)(2).

(7) Section 242B(d)(1) (8 U.S.C. 1252b(d)(1)), before repeal by section 306(b)(6).

(8) Section 273(d) (8 U.S.C. 1323(d)), before its repeal by section 308(e)(13).

(9) Section 292 (8 U.S.C. 1362).

(c) COMPENSATION FOR IMMIGRATION JUDGES.—

(1) IN GENERAL.—There shall be four levels of pay for immigration judges, under the Immigration Judge Schedule (designated as IJ–1, 2, 3, and 4, respectively), and each such judge shall be paid at one of those levels, in accordance with the provisions of this subsection.

(2) RATES OF PAY.—

(A) The rates of basic pay for the levels established under paragraph (1) shall be as follows:

IJ–1	70% of the next to highest rate of basic pay for the Senior Executive Service

IJ–2	80% of the next to highest rate of basic pay for the Senior Executive Service
IJ–3	90% of the next to highest rate of basic pay for the Senior Executive Service
IJ–4	92% of the next to highest rate of basic pay for the Senior Executive Service.

(B) Locality pay, where applicable, shall be calculated into the basic pay for immigration judges.

(3) APPOINTMENT.—

(A) Upon appointment, an immigration judge shall be paid at IJ–1, and shall be advanced to IJ–2 upon completion of 104 weeks of service, to IJ–3 upon completion of 104 weeks of service in the next lower rate, and to IJ–4 upon completion of 52 weeks of service in the next lower rate.

(B) Notwithstanding subparagraph (A), the Attorney General may provide for appointment of an immigration judge at an advanced rate under such circumstances as the Attorney General may determine appropriate.

(4) TRANSITION.—Immigration judges serving as of the effective date shall be paid at the rate that corresponds to the amount of time, as provided under paragraph (3)(A), that they have served as an immigration judge, and in no case shall be paid less after the effective date than the rate of pay prior to the effective date.

(d) EFFECTIVE DATES.—

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) Subsection (c) shall take effect 90 days after the date of the enactment of this Act.

SEC. 372. DELEGATION OF IMMIGRATION ENFORCEMENT AUTHORITY.

Section 103(a) (8 U.S.C. 1103(a)) is amended—

(1) inserting "(1)" after "(a)",

(2) by designating each sentence (after the first sentence) as a separate paragraph with appropriate consecutive numbering and initial indentation,

(3) by adding at the end the following new paragraph:

"(8) In the event the Attorney General determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response, the Attorney General may authorize any State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service.".

SEC. 373. POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER.

Section 103 (8 U.S.C. 1103) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(9) The Attorney General, in support of persons in administrative detention in non-Federal institutions, is authorized—

"(A) to make payments from funds appropriated for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration for necessary clothing, medical care, necessary guard hire, and the housing, care, and security of persons detained by the Service pursuant to Federal law under an agreement with a State or political subdivision of a State; and

"(B) to enter into a cooperative agreement with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies or materials required to establish acceptable conditions of confinement and detention services in any State or unit of local government which agrees to provide guaranteed bed space for persons detained by the Service."; and

(2) by adding at the end of subsection (c), as redesignated by section 102(d)(1), the following: "The Commissioner may enter into cooperative agreements with State and local law enforcement agencies for the purpose of assisting in the enforcement of the immigration laws.".

SEC. 374. JUDICIAL DEPORTATION.

(a) IN GENERAL.—Section 242A(d) (8 U.S.C. 1252a(d)), as added by section 224(a) of Immigration and Nationality Technical Corrections Act of 1994 and before redesignation by section 308(b)(5), is amended—

(1) in paragraph (1), by striking "whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)" and inserting "who is deportable";

(2) in paragraph (4), by striking "without a decision on the merits"; and

(3) by adding at the end the following new paragraph:

"(5) STIPULATED JUDICIAL ORDER OF DEPORTATION.—The United States Attorney, with the concurrence of the Commissioner, may, pursuant to Federal Rule of Criminal Procedure 11, enter into a plea agreement which calls for the alien, who is deportable under this Act, to waive the right to notice and a hearing under this section, and stipulate to the entry of a judicial order of deportation from the United States as a condition of the plea agreement or as a condition of probation or supervised release, or both. The United States district court, in both felony and misdemeanor cases, and a United States magistrate judge in misdemeanor cases, may accept such a stipulation and shall have jurisdiction to enter a judicial order of deportation pursuant to the terms of such stipulation.".

(b) DEPORTATION AS A CONDITION OF PROBATION.—Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) be ordered deported by a United States district court, or United States magistrate judge, pursuant to a stipulation entered into by the defendant and the United States under section 242A(d)(5) of the Immigration and Nationality Act, except that, in the absence of a stipulation, the United States district court or a United States magistrate judge, may order deportation as a condition of probation, if, after notice and hearing pursuant to such section, the Attorney General demonstrates by clear and convincing evidence that the alien is deportable; or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 224(a) of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 375. LIMITATION ON ADJUSTMENT OF STATUS.

Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking "or (6)" and inserting "(6)"; and

(2) by inserting before the period at the end the following: "; (7) any alien who seeks adjustment of status to that of an immigrant under section 203(b) and is not in a lawful nonimmigrant status; or (8) any alien who was employed while the alien was an unauthorized alien, as defined in section 274A(h)(3), or who has otherwise violated the terms of a nonimmigrant visa".

SEC. 376. TREATMENT OF CERTAIN FEES.

(a) INCREASE IN FEE.—Section 245(i) (8 U.S.C. 1255(i)), as added by section 506(b) of Public Law 103–317, is amended—

(1) in paragraph (1), by striking "five times the fee required for the processing of applications under this section" and inserting "$1,000"; and

(2) by amending paragraph (3) to read as follows:

"(3)(A) The portion of each application fee (not to exceed $200) that the Attorney General determines is required to process an application under this section and is remitted to the Attorney General pursuant to paragraphs (1) and (2) of this subsection shall be disposed of by the Attorney General as provided in subsections (m), (n), and (o) of section 286.

"(B) Any remaining portion of such fees remitted under such paragraphs shall be deposited by the Attorney General into the Immigration Detention Account established under section 286(s).".

(b) IMMIGRATION DETENTION ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

"(s) IMMIGRATION DETENTION ACCOUNT.—(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Detention Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Detention Account amounts described in section 245(i)(3)(B) to remain available until expended.

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration Detention Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for the detention of aliens under sections 236(c) and 241(a).

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Detention Account for fiscal year 1997 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Detention Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications made on or after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 377. LIMITATION ON LEGALIZATION LITIGATION.

(a) LIMITATION ON COURT JURISDICTION.—Section 245A(f)(4) (8 U.S.C. 1255a(f)(4)) is amended by adding at the end the following new subparagraph:

"(C) JURISDICTION OF COURTS.—Notwithstanding any other provision of law, no court shall have jurisdiction of any cause of action or claim by or on behalf of any person asserting an interest under this section unless such person in fact filed an application under this section within the period specified by subsection (a)(1), or attempted to file a complete application and application fee with an authorized legalization officer of the Service but had the application and fee refused by that officer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 378. RESCISSION OF LAWFUL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—Section 246(a) (8 U.S.C. 1256(a)) is amended by adding at the end the following sentence: "Nothing in this subsection shall require the Attorney General to rescind the alien's status prior to commencement of procedures to remove the alien under section 240, and an order of removal issued by an immigration judge shall be sufficient to rescind the alien's status.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the title III–A effective date (as defined in section 309(a)).

SEC. 379. ADMINISTRATIVE REVIEW OF ORDERS.

(a) IN GENERAL.—Sections 274A(e)(7) and 274C(d)(4) (8 U.S.C. 1324a(e)(7), 1324c(d)(4)) are each amended—

(1) by striking "unless, within 30 days, the Attorney General modifies or vacates the decision and order" and inserting "unless either (A) within 30 days, an official delegated by regulation to exercise review authority over the decision and order modifies or vacates the decision and order, or (B) within 30 days of the date of such a modification or vacation (or within 60 days of the date of decision and order of an administrative law judge if not so modified or vacated) the decision and order is referred to the Attorney General pursuant to regulations"; and

(2) by striking "a final order" and inserting "the final agency decision and order".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders issued on or after the date of the enactment of this Act.

SEC. 380. CIVIL PENALTIES FOR FAILURE TO DEPART.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 274C the following new section:

"CIVIL PENALTIES FOR FAILURE TO DEPART

"SEC. 274D. (a) IN GENERAL.—Any alien subject to a final order of removal who—

"(1) willfully fails or refuses to—

"(A) depart from the United States pursuant to the order,

"(B) make timely application in good faith for travel or other documents necessary for departure, or

"(C) present for removal at the time and place required by the Attorney General; or

"(2) conspires to or takes any action designed to prevent or hamper the alien's departure pursuant to the order,

shall pay a civil penalty of not more than $500 to the Commissioner for each day the alien is in violation of this section.

"(b) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any penalties to which an alien may be subject for activities proscribed by section 243(a) or any other section of this Act.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274C the following new item:

"Sec. 274D. Civil penalties for failure to depart.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the title III–A effective date (as defined in section 309(a)).

SEC. 381. CLARIFICATION OF DISTRICT COURT JURISDICTION.

(a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is amended—

(1) by amending the first sentence to read as follows: "The district courts of the United States shall have jurisdiction of all causes, civil and criminal, brought by the United States that arise under the provisions of this title.", and

(2) by adding at the end the following new sentence: "Nothing in this section shall be construed as providing jurisdiction for suits against the United States or its agencies or officers.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to actions filed after the date of the enactment of this Act.

SEC. 382. APPLICATION OF ADDITIONAL CIVIL PENALTIES TO ENFORCEMENT.

(a) IN GENERAL.—Subsection (b) of section 280 (8 U.S.C. 1330) is amended to read as follows:

"(b)(1) There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration Enforcement Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration Enforcement Account amounts described in paragraph (2) to remain available until expended.

"(2) The amounts described in this paragraph are the following:

"(A) The increase in penalties collected resulting from the amendments made by sections 203(b) and 543(a) of the Immigration Act of 1990.

"(B) Civil penalties collected under sections 240B(d), 274C, 274D, and 275(b).

"(3)(A) The Secretary of the Treasury shall refund out of the Immigration Enforcement Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General for activities that enhance enforcement of provisions of this title. Such activities include—

"(i) the identification, investigation, apprehension, detention, and removal of criminal aliens;

"(ii) the maintenance and updating of a system to identify and track criminal aliens, deportable aliens, inadmissible aliens, and aliens illegally entering the United States; and

"(iii) for the repair, maintenance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(C) The amounts required to be refunded from the Immigration Enforcement Account for fiscal year 1996 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in such budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of Public Law 104–134.

"(D) The Attorney General shall prepare and submit annually to the Congress statements of financial condition of the Immigration Enforcement Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.".

(b) IMMIGRATION USER FEE ACCOUNT.—Section 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by striking "271" and inserting "243(c), 271,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fines and penalties collected on or after the date of the enactment of this Act.

SEC. 383. EXCLUSION OF CERTAIN ALIENS FROM FAMILY UNITY PROGRAM.

(a) IN GENERAL.—Section 301(e) of the Immigration Act of 1990 (8 U.S.C. 1255a note) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(3) has committed an act of juvenile delinquency which if committed by an adult would be classified as—

"(A) a felony crime of violence that has an element the use or attempted use of physical force against another individual, or

"(B) a felony offense that by its nature involves a substantial risk that physical force against another individual may be used in the course of committing the offense.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits granted or extended after the date of the enactment of this Act.

SEC. 384. PENALTIES FOR DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Except as provided in subsection (b), in no case may the Attorney General, or any other official or employee of the Department of Justice (including any bureau or agency of such Department)—

(1) make an adverse determination of admissibility or deportability of an alien under the Immigration and Nationality Act using information furnished solely by—

(A) a spouse or parent who has battered the alien or subjected the alien to extreme cruelty,

(B) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty,

(C) a spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty), or

(D) a member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty,

unless the alien has been convicted of a crime or crimes listed in section 241(a)(2) of the Immigration and Nationality Act; or

(2) permit use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to an alien who is the beneficiary of an application for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 216(c)(4)(C), or section 244(a)(3) of such Act as an alien (or the parent of a child) who has been battered or subjected to extreme cruelty.

The limitation under paragraph (2) ends when the application for relief is denied and all opportunities for appeal of the denial have been exhausted.

(b) EXCEPTIONS.—

(1) The Attorney General may provide, in the Attorney General's discretion, for the disclosure of information in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

(2) The Attorney General may provide in the discretion of the Attorney General for the disclosure of information to law enforcement officials

to be used solely for a legitimate law enforcement purpose.

(3) Subsection (a) shall not be construed as preventing disclosure of information in connection with judicial review of a determination in a manner that protects the confidentiality of such information.

(4) Subsection (a)(2) shall not apply if all the battered individuals in the case are adults and they have all waived the restrictions of such subsection.

(c) PENALTIES FOR VIOLATIONS.—Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each such violation.

(d) CONFORMING AMENDMENTS TO OTHER DISCLOSURE RESTRICTIONS.—

(1) IN GENERAL.—The last sentence of section 210(b)(6) and the second sentence of section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) are each amended to read as follows: "Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to appropriate disciplinary action and subject to a civil money penalty of not more than $5,000 for each violation.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to offenses occurring on or after the date of the enactment of this Act.

SEC. 385. AUTHORIZATION OF ADDITIONAL FUNDS FOR REMOVAL OF ALIENS.

In addition to the amounts otherwise authorized to be appropriated for each fiscal year beginning with fiscal year 1996, there are authorized to be appropriated to the Attorney General $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal, the hiring of more investigators, and the hiring of more detention and deportation officers.

SEC. 386. INCREASE IN INS DETENTION FACILITIES; REPORT ON DETENTION SPACE.

(a) INCREASE IN DETENTION FACILITIES.—Subject to the availability of appropriations, the Attorney General shall provide for an increase in the detention facilities of the Immigration and Naturalization Service to at least 9,000 beds before the end of fiscal year 1997.

(b) REPORT ON DETENTION SPACE.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate estimating the amount of detention space that will be required, during the fiscal year in which the report is submitted and the succeeding fiscal year, to detain—

(A) all aliens subject to detention under section 236(c) of the Immigration and Nationality Act (as amended by section 303 of this title) and section 241(a) of the Immigration and Nationality Act (as inserted by section 305(a)(3) of this title);

(B) all excludable or deportable aliens subject to proceedings under section 238 of the Immigration and Nationality Act (as redesignated by section 308(b)(5) of this title) or section 235(b)(2)(A) or 240 of the Immigration and Nationality Act; and

(C) other excludable or deportable aliens in accordance with the priorities established by the Attorney General.

(2) ESTIMATE OF NUMBER OF ALIENS RELEASED INTO THE COMMUNITY.—

(A) CRIMINAL ALIENS.—

(i) IN GENERAL.—The first report submitted under paragraph (1) shall include an estimate of the number of criminal aliens who, in each of the 3 fiscal years concluded prior to the date of the report—

(I) were released from detention facilities of the Immigration and Naturalization Service (whether operated directly by the Service or through contract with other persons or agencies); or

(II) were not taken into custody or detention by the Service upon completion of their incarceration.

(ii) ALIENS CONVICTED OF AGGRAVATED FELONIES.—The estimate under clause (i) shall estimate separately, with respect to each year described in such clause, the number of criminal aliens described in such clause who were convicted of an aggravated felony.

(B) ALL EXCLUDABLE OR DEPORTABLE ALIENS.—The first report submitted under paragraph (1) shall also estimate the number of excludable or deportable aliens who were released into the community due to a lack of detention facilities in each of the 3 fiscal years concluded prior to the date of the report notwithstanding circumstances that the Attorney General believed justified detention (for example, a significant probability that the released alien would not appear, as agreed, at subsequent exclusion or deportation proceedings).

(C) SUBSEQUENT REPORTS.—Each report under paragraph (1) following the first such report shall include the estimates under subparagraphs (A) and (B), made with respect to the 6-month period immediately preceding the date of the submission of the report.

SEC. 387. PILOT PROGRAM ON USE OF CLOSED MILITARY BASES FOR THE DETENTION OF INADMISSIBLE OR DEPORTABLE ALIENS.

(a) ESTABLISHMENT.—The Attorney General and the Secretary of Defense shall establish one or more pilot programs for up to 2 years each to determine the feasibility of the use of military bases, available because of actions under a base closure law, as detention centers by the Immigration and Naturalization Service. In selecting real property at a military base for use as a detention center under the pilot program, the Attorney General and the Secretary shall consult with the redevelopment authority established for the military base and give substantial deference to the redevelopment plan prepared for the military base.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Attorney General, together with the Secretary of Defense, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate, and the Committees on Armed Services of the House of Representatives and of the Senate, on the feasibility of using military bases closed under a base closure law as detention centers by the Immigration and Naturalization Service.

(c) DEFINITION.—For purposes of this section, the term "base closure law" means each of the following:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(3) Section 2687 of title 10, United States Code.

(4) Any other similar law enacted after the date of the enactment of this Act.

SEC. 388. REPORT ON INTERIOR REPATRIATION PROGRAM.

Not later than 30 months after the date of the enactment of this Act, the Attorney General, in consultation with the Secretary of State, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of the program of interior repatriation developed under section 437 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132).

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

Subtitle A—Pilot Programs for Employment Eligibility Confirmation

SEC. 401. ESTABLISHMENT OF PROGRAMS.

(a) IN GENERAL.—The Attorney General shall conduct 3 pilot programs of employment eligibility confirmation under this subtitle.

(b) IMPLEMENTATION DEADLINE; TERMINATION.—The Attorney General shall implement the pilot programs in a manner that permits persons and other entities to have elections under section 402 made and in effect no later than 1 year after the date of the enactment of this Act. Unless the Congress otherwise provides, the Attorney General shall terminate a pilot program at the end of the 4-year period beginning on the first day the pilot program is in effect.

(c) SCOPE OF OPERATION OF PILOT PROGRAMS.—The Attorney General shall provide for the operation—

(1) of the basic pilot program (described in section 403(a)) in, at a minimum, 5 of the 7 States with the highest estimated population of aliens who are not lawfully present in the United States;

(2) of the citizen attestation pilot program (described in section 403(b)) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(b)(2)(A); and

(3) of the machine-readable-document pilot program (described in section 403(c)) in at least 5 States (or, if fewer, all of the States) that meet the condition described in section 403(c)(2).

(d) REFERENCES IN SUBTITLE.—In this subtitle—

(1) PILOT PROGRAM REFERENCES.—The terms "program" or "pilot program" refer to any of the 3 pilot programs provided for under this subtitle.

(2) CONFIRMATION SYSTEM.—The term "confirmation system" means the confirmation system established under section 404.

(3) REFERENCES TO SECTION 274A.—Any reference in this subtitle to section 274A (or a subdivision of such section) is deemed a reference to such section (or subdivision thereof) of the Immigration and Nationality Act.

(4) I–9 OR SIMILAR FORM.—The term "I–9 or similar form" means the form used for purposes of section 274A(b)(1)(A) or such other form as the Attorney General determines to be appropriate.

(5) LIMITED APPLICATION TO RECRUITERS AND REFERRERS.—Any reference to recruitment or referral (or a recruiter or referrer) in relation to employment is deemed a reference only to such recruitment or referral (or recruiter or referrer) that is subject to section 274A(a)(1)(B)(ii).

(6) UNITED STATES CITIZENSHIP.—The term "United States citizenship" includes United States nationality.

(7) STATE.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

SEC. 402. VOLUNTARY ELECTION TO PARTICIPATE IN A PILOT PROGRAM.

(a) VOLUNTARY ELECTION.—Subject to subsection (c)(3)(B), any person or other entity that conducts any hiring (or recruitment or referral) in a State in which a pilot program is operating may elect to participate in that pilot program. Except as specifically provided in subsection (e), the Attorney General may not require any person or other entity to participate in a pilot program.

(b) BENEFIT OF REBUTTABLE PRESUMPTION.—

(1) IN GENERAL.—If a person or other entity is participating in a pilot program and obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring

(or recruitment or referral) of an individual for employment in the United States, the person or entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A) with respect to such hiring (or such recruitment or referral).

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as preventing a person or other entity that has an election in effect under subsection (a) from establishing an affirmative defense under section 274A(a)(3) if the person or entity complies with the requirements of section 274A(a)(1)(B) but fails to obtain confirmation under paragraph (1).

(c) GENERAL TERMS OF ELECTIONS.—

(1) IN GENERAL.—An election under subsection (a) shall be in such form and manner, under such terms and conditions, and shall take effect, as the Attorney General shall specify. The Attorney General may not impose any fee as a condition of making an election or participating in a pilot program.

(2) SCOPE OF ELECTION.—

(A) IN GENERAL.—Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—

(i) to all its hiring (and all recruitment or referral) in the State (or States) in which the pilot program is operating, or

(ii) to its hiring (or recruitment or referral) in one or more pilot program States or one or more places of hiring (or recruitment or referral, as the case may be) in the pilot program States.

(B) APPLICATION OF PROGRAMS IN NON-PILOT PROGRAM STATES.—In addition, the Attorney General may permit a person or entity electing—

(i) the basic pilot program (described in section 403(a)) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating, or

(ii) the citizen attestation pilot program (described in 403(b)) or the machine-readable-document pilot program (described in section 403(c)) to provide that the election applies to its hiring (or recruitment or referral) in one or more States or places of hiring (or recruitment or referral) in which the pilot program is not otherwise operating but only if such States meet the requirements of 403(b)(2)(A) and 403(c)(2), respectively.

(3) ACCEPTANCE AND REJECTION OF ELECTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General shall accept all elections made under subsection (a).

(B) REJECTION OF ELECTIONS.—The Attorney General may reject an election by a person or other entity under this section or limit its applicability to certain States or places of hiring (or recruitment or referral) if the Attorney General has determined that there are insufficient resources to provide appropriate services under a pilot program for the person's or entity's hiring (or recruitment or referral) in any or all States or places of hiring.

(4) TERMINATION OF ELECTIONS.—The Attorney General may terminate an election by a person or other entity under this section because the person or entity has substantially failed to comply with its obligations under the pilot program. A person or other entity may terminate an election in such form and manner as the Attorney General shall specify.

(d) CONSULTATION, EDUCATION, AND PUBLICITY.—

(1) CONSULTATION.—The Attorney General shall closely consult with representatives of employers (and recruiters and referrers) in the development and implementation of the pilot programs, including the education of employers (and recruiters and referrers) about such programs.

(2) PUBLICITY.—The Attorney General shall widely publicize the election process and pilot programs, including the voluntary nature of the pilot programs and the advantages to employers (and recruiters and referrers) of making an election under this section.

(3) ASSISTANCE THROUGH DISTRICT OFFICES.—The Attorney General shall designate one or more individuals in each District office of the Immigration and Naturalization Service for a Service District in which a pilot program is being implemented—

(A) to inform persons and other entities that seek information about pilot programs of the voluntary nature of such programs, and

(B) to assist persons and other entities in electing and participating in any pilot programs in effect in the District, in complying with the requirements of section 274A, and in facilitating confirmation of the identity and employment eligibility of individuals consistent with such section.

(e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN A PILOT PROGRAM.—

(1) FEDERAL GOVERNMENT.—

(A) EXECUTIVE DEPARTMENTS.—

(i) IN GENERAL.—Each Department of the Federal Government shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election.

(ii) ELECTION.—Subject to clause (iii), the Secretary of each such Department—

(I) shall elect the pilot program (or programs) in which the Department shall participate, and

(II) may limit the election to hiring occurring in certain States (or geographic areas) covered by the program (or programs) and in specified divisions within the Department, so long as all hiring by such divisions and in such locations is covered.

(iii) ROLE OF ATTORNEY GENERAL.—The Attorney General shall assist and coordinate elections under this subparagraph in such manner as assures that—

(I) a significant portion of the total hiring within each Department within States covered by a pilot program is covered under such a program, and

(II) there is significant participation by the Federal Executive branch in each of the pilot programs.

(B) LEGISLATIVE BRANCH.—Each Member of Congress, each officer of Congress, and the head of each agency of the legislative branch, that conducts hiring in a State in which a pilot program is operating shall elect to participate in a pilot program, may specify which pilot program or programs (if there is more than one) in which the Member, officer, or agency will participate, and shall comply with the terms and conditions of such an election.

(2) APPLICATION TO CERTAIN VIOLATORS.—An order under section 274A(e)(4) or section 274B(g) of the Immigration and Nationality Act may require the subject of the order to participate in, and comply with the terms of, a pilot program with respect to the subject's hiring (or recruitment or referral) of individuals in a State covered by such a program.

(3) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If a person or other entity is required under this subsection to participate in a pilot program and fails to comply with the requirements of such program with respect to an individual—

(A) such failure shall be treated as a violation of section 274A(a)(1)(B) with respect to that individual, and

(B) a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A).

Subparagraph (B) shall not apply in any prosecution under section 274A(f)(1).

(f) CONSTRUCTION.—This subtitle shall not affect the authority of the Attorney General under any other law (including section 274A(d)(4)) to conduct demonstration projects in relation to section 274A.

SEC. 403. PROCEDURES FOR PARTICIPANTS IN PILOT PROGRAMS.

(a) BASIC PILOT PROGRAM.—A person or other entity that elects to participate in the basic pilot program described in this subsection agrees to conform to the following procedures in the case of the hiring (or recruitment or referral) for employment in the United States of each individual covered by the election:

(1) PROVISION OF ADDITIONAL INFORMATION.—The person or entity shall obtain from the individual (and the individual shall provide) and shall record on the I-9 or similar form—

(A) the individual's social security account number, if the individual has been issued such a number, and

(B) if the individual does not attest to United States citizenship under section 274A(b)(2), such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General shall specify,

and shall retain the original form and make it available for inspection for the period and in the manner required of I-9 forms under section 274A(b)(3).

(2) PRESENTATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or other entity, and the individual whose identity and employment eligibility are being confirmed, shall, subject to subparagraph (B), fulfill the requirements of section 274A(b) with the following modifications:

(i) A document referred to in section 274A(b)(1)(B)(ii) (as redesignated by section 412(a)) must be designated by the Attorney General as suitable for the purpose of identification in a pilot program.

(ii) A document referred to in section 274A(b)(1)(D) must contain a photograph of the individual.

(iii) The person or other entity has complied with the requirements of section 274A(b)(1) with respect to examination of a document if the document reasonably appears on its face to be genuine and it reasonably appears to pertain to the individual whose identity and work eligibility is being confirmed.

(B) LIMITATION OF REQUIREMENT TO EXAMINE DOCUMENTATION.—If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether—

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person,

if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.

(3) SEEKING CONFIRMATION.—

(A) IN GENERAL.—The person or other entity shall make an inquiry, as provided in section 404(a)(1), using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

(B) EXTENSION OF TIME PERIOD.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the

confirmation system has registered that not all inquiries were received during such time, the person or entity can make an inquiry in the first subsequent working day in which the confirmation system registers that it has received all inquiries. If the confirmation system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.

(4) CONFIRMATION OR NONCONFIRMATION.—

(A) CONFIRMATION UPON INITIAL INQUIRY.—If the person or other entity receives an appropriate confirmation of an individual's identity and work eligibility under the confirmation system within the time period specified under section 404(b), the person or entity shall record on the I-9 or similar form an appropriate code that is provided under the system and that indicates a final confirmation of such identity and work eligibility of the individual.

(B) NONCONFIRMATION UPON INITIAL INQUIRY AND SECONDARY VERIFICATION.—

(i) NONCONFIRMATION.—If the person or other entity receives a tentative nonconfirmation of an individual's identity or work eligibility under the confirmation system within the time period specified under 404(b), the person or entity shall so inform the individual for whom the confirmation is sought.

(ii) NO CONTEST.—If the individual does not contest the nonconfirmation within the time period specified in section 404(c), the nonconfirmation shall be considered final. The person or entity shall then record on the I-9 or similar form an appropriate code which has been provided under the system to indicate a tentative nonconfirmation.

(iii) CONTEST.—If the individual does contest the nonconfirmation, the individual shall utilize the process for secondary verification provided under section 404(c). The nonconfirmation will remain tentative until a final confirmation or nonconfirmation is provided by the confirmation system within the time period specified in such section. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonconfirmation becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

(iv) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the confirmation system under section 404(c) regarding an individual, the person or entity shall record on the I-9 or similar form an appropriate code that is provided under the system and that indicates a confirmation or nonconfirmation of identity and work eligibility of the individual.

(C) CONSEQUENCES OF NONCONFIRMATION.—

(i) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonconfirmation regarding an individual under subparagraph (B), the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the confirmation system or in such other manner as the Attorney General may specify.

(ii) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under clause (i), the failure is deemed to constitute a violation of section 274A(a)(1)(B) with respect to that individual and the applicable civil monetary penalty under section 274A(e)(5) shall be (notwithstanding the amounts specified in such section) no less than $500 and no more than $1,000 for each individual with respect to whom such violation occurred.

(iii) CONTINUED EMPLOYMENT AFTER FINAL NONCONFIRMATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonconfirmation, a rebuttable presumption is created that the person or entity has violated section 274A(a)(1)(A). The previous sentence shall not apply in any prosecution under section 274A(f)(1).

(b) CITIZEN ATTESTATION PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraphs (3) through (5), the procedures applicable under the citizen attestation pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) RESTRICTIONS.—

(A) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A(b)(1)(D)(i) issued by the State—

(i) contains a photograph of the individual involved, and

(ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

(B) AUTHORIZATION TO LIMIT EMPLOYER PARTICIPATION.—The Attorney General may restrict the number of persons or other entities that may elect to participate in the citizen attestation pilot program under this subsection as the Attorney General determines to be necessary to produce a representative sample of employers and to reduce the potential impact of fraud.

(3) NO CONFIRMATION REQUIRED FOR CERTAIN INDIVIDUALS ATTESTING TO U.S. CITIZENSHIP.—In the case of a person or other entity hiring (or recruiting or referring) an individual under the citizen attestation pilot program, if the individual attests to United States citizenship (under penalty of perjury on an I-9 or similar form which form states on its face the criminal and other penalties provided under law for a false representation of United States citizenship)—

(A) the person or entity may fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B)(i) or (D) of such section; and

(B) the person or other entity is not required to comply with respect to such individual with the procedures described in paragraphs (3) and (4) of subsection (a), but only if the person or entity retains the form and makes it available for inspection in the same manner as in the case of an I-9 form under section 274A(b)(3).

(4) WAIVER OF DOCUMENT PRESENTATION REQUIREMENT IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a person or entity that elects, in a manner specified by the Attorney General consistent with subparagraph (B), to participate in the pilot program under this paragraph, if an individual being hired (or recruited or referred) attests (in the manner described in paragraph (3)) to United States citizenship and the person or entity retains the form on which the attestation is made and makes it available for inspection in the same manner as in the case of an I-9 form under section 274A(b)(3), the person or entity is not required to comply with the procedures described in section 274A(b).

(B) RESTRICTION.—The Attorney General shall restrict the election under this paragraph to no more than 1,000 employers and, to the extent practicable, shall select among employers seeking to make such election in a manner that provides for such an election by a representative sample of employers.

(5) NONREVIEWABLE DETERMINATIONS.—The determinations of the Attorney General under paragraphs (2) and (4) are within the discretion of the Attorney General and are not subject to judicial or administrative review.

(c) MACHINE-READABLE-DOCUMENT PILOT PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (3), the procedures applicable under the machine-readable-document pilot program under this subsection shall be the same procedures as those under the basic pilot program under subsection (a).

(2) STATE DOCUMENT REQUIREMENT TO PARTICIPATE IN PILOT PROGRAM.—The Attorney General may not provide for the operation of the machine-readable-document pilot program in a State unless driver's licenses and similar identification documents described in section 274A(b)(1)(D)(i) issued by the State include a machine-readable social security account number.

(3) USE OF MACHINE-READABLE DOCUMENTS.—If the individual whose identity and employment eligibility must be confirmed presents to the person or entity hiring (or recruiting or referring) the individual a license or other document described in paragraph (2) that includes a machine-readable social security account number, the person or entity must make an inquiry through the confirmation system by using a machine-readable feature of such document. If the individual does not attest to United States citizenship under section 274A(b)(2), the individual's identification or authorization number described in subsection (a)(1)(B) shall be provided as part of the inquiry.

(d) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION PROVIDED BY THE CONFIRMATION SYSTEM.—No person or entity participating in a pilot program shall be civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

SEC. 404. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a pilot program confirmation system through which the Attorney General (or a designee of the Attorney General, which may be a nongovernmental entity)—

(1) responds to inquiries made by electing persons and other entities (including those made by the transmittal of data from machine-readable documents under the machine-readable pilot program) at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed, and

(2) maintains records of the inquiries that were made, of confirmations provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under the pilot programs.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

(b) INITIAL RESPONSE.—The confirmation system shall provide confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing confirmation or tentative nonconfirmation, the confirmation system shall provide an appropriate code indicating such confirmation or such nonconfirmation.

(c) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—In cases of

tentative nonconfirmation, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final confirmation or nonconfirmation within 10 working days after the date of the tentative nonconfirmation. When final confirmation or nonconfirmation is provided, the confirmation system shall provide an appropriate code indicating such confirmation or nonconfirmation.

(d) DESIGN AND OPERATION OF SYSTEM.—The confirmation system shall be designed and operated—

(1) to maximize its reliability and ease of use by persons and other entities making elections under section 402(a) consistent with insulating and protecting the privacy and security of the underlying information;

(2) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(3) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(4) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(A) the selective or unauthorized use of the system to verify eligibility;

(B) the use of the system prior to an offer of employment; or

(C) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

(e) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the confirmation system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The Commissioner shall not disclose or release social security information (other than such confirmation or nonconfirmation).

(f) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the confirmation system, the Commissioner of the Immigration and Naturalization Service, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subsections (b) and (c), compares the name and alien identification or authorization number described in section 403(a)(1)(B) which are provided in an inquiry against such information maintained by the Commissioner in order to confirm (or not confirm) the validity of the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

(g) UPDATING INFORMATION.—The Commissioners of Social Security and the Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subsection (c).

(h) LIMITATION ON USE OF THE CONFIRMATION SYSTEM AND ANY RELATED SYSTEMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this subtitle for any other purpose other than as provided for under a pilot program.

(2) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 405. REPORTS.

The Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate reports on the pilot programs within 3 months after the end of the third and fourth years in which the programs are in effect. Such reports shall—

(1) assess the degree of fraudulent attesting of United States citizenship,

(2) include recommendations on whether or not the pilot programs should be continued or modified, and

(3) assess the benefits of the pilot programs to employers and the degree to which they assist in the enforcement of section 274A.

Subtitle B—Other Provisions Relating to Employer Sanctions

SEC. 411. LIMITING LIABILITY FOR CERTAIN TECHNICAL VIOLATIONS OF PAPERWORK REQUIREMENTS.

(a) IN GENERAL.—Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following new paragraph:

"(6) GOOD FAITH COMPLIANCE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a person or entity is considered to have complied with a requirement of this subsection notwithstanding a technical or procedural failure to meet such requirement if there was a good faith attempt to comply with the requirement.

"(B) EXCEPTION IF FAILURE TO CORRECT AFTER NOTICE.—Subparagraph (A) shall not apply if—

"(i) the Service (or another enforcement agency) has explained to the person or entity the basis for the failure,

"(ii) the person or entity has been provided a period of not less than 10 business days (beginning after the date of the explanation) within which to correct the failure, and

"(iii) the person or entity has not corrected the failure voluntarily within such period.

"(C) EXCEPTION FOR PATTERN OR PRACTICE VIOLATORS.—Subparagraph (A) shall not apply to a person or entity that has or is engaging in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures occurring on or after the date of the enactment of this Act.

SEC. 412. PAPERWORK AND OTHER CHANGES IN THE EMPLOYER SANCTIONS PROGRAM.

(a) REDUCING THE NUMBER OF DOCUMENTS ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section 274A(b)(1) (8 U.S.C. 1324a(b)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking clauses (ii) through (iv),

(B) in clause (v), by striking "or other alien registration card, if the card" and inserting ", alien registration card, or other document designated by the Attorney General, if the document" and redesignating such clause as clause (ii), and

(C) in clause (ii), as so redesignated—

(i) in subclause (I), by striking "or" before "such other personal identifying information" and inserting "and",

(ii) by striking "and" at the end of subclause (I),

(iii) by striking the period at the end of subclause (II) and inserting ", and", and

(iv) by adding at the end the following new subclause:

"(III) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.";

(2) in subparagraph (C)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii); and

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

"(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Attorney General finds, by regulation, that any document described in subparagraph (B), (C), or (D) as establishing employment authorization or identity does not reliably establish such authorization or identity or is being used fraudulently to an unacceptable degree, the Attorney General may prohibit or place conditions on its use for purposes of this subsection.".

(b) REDUCTION OF PAPERWORK FOR CERTAIN EMPLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF DOCUMENTATION FOR CERTAIN EMPLOYEES.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) an individual is a member of a collective-bargaining unit and is employed, under a collective bargaining agreement entered into between one or more employee organizations and an association of two or more employers, by an employer that is a member of such association, and

"(ii) within the period specified in subparagraph (B), another employer that is a member of the association (or an agent of such association on behalf of the employer) has complied with the requirements of subsection (b) with respect to the employment of the individual,

the subsequent employer shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of the employee and shall not be liable for civil penalties described in subsection (e)(5).

"(B) PERIOD.—The period described in this subparagraph is 3 years, or, if less, the period of time that the individual is authorized to be employed in the United States.

"(C) LIABILITY.—

"(i) IN GENERAL.—If any employer that is a member of an association hires for employment in the United States an individual and relies upon the provisions of subparagraph (A) to comply with the requirements of subsection (b) and the individual is an alien not authorized to work in the United States, then for the purposes of paragraph (1)(A), subject to clause (ii), the employer shall be presumed to have known at the time of hiring or afterward that the individual was an alien not authorized to work in the United States.

"(ii) REBUTTAL OF PRESUMPTION.—The presumption established by clause (i) may be rebutted by the employer only through the presentation of clear and convincing evidence that the employer did not know (and could not reasonably have known) that the individual at the time of hiring or afterward was an alien not authorized to work in the United States.

"(iii) EXCEPTION.—Clause (i) shall not apply in any prosecution under subsection (f)(1).".

(c) ELIMINATION OF DATED PROVISIONS.—Section 274A (8 U.S.C. 1324a) is amended by striking subsections (i) through (n).

(d) CLARIFICATION OF APPLICATION TO FEDERAL GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(7) APPLICATION TO FEDERAL GOVERNMENT.—For purposes of this section, the term 'entity' includes an entity in any branch of the Federal Government.".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply with respect to hiring (or recruitment or referral) occurring on or after such date (not later than 12 months after the date of the enactment of this Act) as the Attorney General shall designate.

(2) The amendment made by subsection (b) shall apply to individuals hired on or after 60 days after the date of the enactment of this Act.

(3) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(4) The amendment made by subsection (d) applies to hiring occurring before, on, or after the date of the enactment of this Act, but no penalty shall be imposed under subsection (e) or (f) of section 274A of the Immigration and Nationality Act for such hiring occurring before such date.

SEC. 413. REPORT ON ADDITIONAL AUTHORITY OR RESOURCES NEEDED FOR ENFORCEMENT OF EMPLOYER SANCTIONS PROVISIONS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on any additional authority or resources needed—

(1) by the Immigration and Naturalization Service in order to enforce section 274A of the Immigration and Nationality Act, or

(2) by Federal agencies in order to carry out the Executive Order of February 13, 1996 (entitled "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Naturalization Act Provisions") and to expand the restrictions in such order to cover agricultural subsidies, grants, job training programs, and other Federally subsidized assistance programs.

(b) REFERENCE TO INCREASED AUTHORIZATION OF APPROPRIATIONS.—For provision increasing the authorization of appropriations for investigators for violations of sections 274 and 274A of the Immigration and Nationality Act, see section 131.

SEC. 414. REPORTS ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.

(a) IN GENERAL.—Subsection (c) of section 290 (8 U.S.C. 1360) is amended to read as follows:

"(c)(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

"(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.".

(b) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act, a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

SEC. 415. AUTHORIZING MAINTENANCE OF CERTAIN INFORMATION ON ALIENS.

Section 264 (8 U.S.C. 1304) is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Attorney General is authorized to require any alien to provide the alien's social security account number for purposes of inclusion in any record of the alien maintained by the Attorney General or the Service.".

SEC. 416. SUBPOENA AUTHORITY.

Section 274A(e)(2) (8 U.S.C. 1324a(e)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by inserting after subparagraph (B) the following:

"(C) immigration officers designated by the Commissioner may compel by subpoena the attendance of witnesses and the production of evidence at any designated place prior to the filing of a complaint in a case under paragraph (2).".

Subtitle C—Unfair Immigration-Related Employment Practices

SEC. 421. TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking "For purposes of paragraph (1), a" and inserting "A"; and

(2) by striking "relating to the hiring of individuals" and inserting the following: "if made for the purpose or with the intent of discriminating against an individual in violation of paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests made on or after the date of the enactment of this Act.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

SEC. 500. STATEMENTS OF NATIONAL POLICY CONCERNING WELFARE AND IMMIGRATION.

(a) STATEMENTS OF CONGRESSIONAL POLICY.—The Congress makes the following statements concerning national policy with respect to welfare and immigration:

(1) Self-sufficiency has been a basic principle of United States immigration law since this country's earliest immigration statutes.

(2) It continues to be the immigration policy of the United States that—

(A) aliens within the nation's borders not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations, and

(B) the availability of public benefits not constitute an incentive for immigration to the United States.

(3) Despite this principle of self-sufficiency, aliens have been applying for and receiving public benefits from Federal, State, and local governments at increasing rates.

(4) Current eligibility rules for public assistance and unenforceable financial support agreements have proved incapable of assuring that individual aliens do not burden the public benefits system.

(5) It is a compelling government interest to enact new rules for eligibility and sponsorship agreements in order to assure that aliens are self-reliant in accordance with national immigration policy.

(6) It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits.

(b) SENSE OF CONGRESS.—

(1) IN GENERAL.—With respect to the authority of a State to make determinations concerning the eligibility of aliens for public benefits, it is the sense of the Congress that a court should apply the same standard of review to an applicable State law as that court uses in determining whether an Act of Congress regulating the eligibility of aliens for public benefits meets constitutional scrutiny.

(2) STRICT SCRUTINY.—In cases where a court holds that a State law determining the eligibility of aliens for public benefits must be the least restrictive means available for achieving a compelling government interest, a State that chooses to follow the Federal classification in determining the eligibility of aliens for public benefits, pursuant to the authorization contained in this title, shall be considered to have chosen the least restrictive means available for achieving the compelling government interest of assuring that aliens are self-reliant in accordance with national immigration policy.

Subtitle A—Ineligibility of Excludable Deportable, and Nonimmigrant Aliens From Public Assistance and Benefits

SEC. 501. MEANS-TESTED PUBLIC BENEFITS.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, an ineligible alien (as defined in subsection (d)) shall not be eligible to receive any means-tested public benefits (as defined in subsection (e)).

(b) EXCEPTIONS.—Subsection (a) shall not apply to any of the following benefits:

(1)(A) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(B) For purposes of this paragraph, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(i) placing the patient's health in serious jeopardy,

(ii) serious impairment to bodily functions, or

(iii) serious dysfunction of any bodily organ or part.

(2) Short-term noncash emergency disaster relief.

(3) Assistance or benefits under any of the following (including any successor program to any of the following as identified by the Attorney General in consultation with other appropriate officials):

(A) The National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(C) Section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note).

(D) The Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note).

(E) Section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note).

(F) The food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

(4) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for any such diseases (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

(5) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence), and short-term shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with appropriate government agencies, if—

(A) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(B) such service or assistance is necessary for the protection of life, safety, or public health; and

(C) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(6) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

(c) ELIGIBLE ALIEN DEFINED.—For the purposes of this section—

(1) IN GENERAL.—The term "eligible alien" means an alien—

(A) who is an alien lawfully admitted for permanent residence under the Immigration and Nationality Act,

(B) who is an alien granted asylum under section 208 of such Act,

(C) who is an alien admitted as a refugee under section 207 of such Act,

(D) whose deportation has been withheld under section 241(b)(3) of such Act (as amended by section 305(a)(3)), or

(E) who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, but only for the first year of such parole.

(2) INCLUSION OF CERTAIN BATTERED ALIENS.—Such term includes—

(A) an alien who—

(i) has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to, or acquiesced in, such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) has been approved or has a petition pending which sets forth a prima facie case for—

(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act,

(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the Act,

(III) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such Act, or

(IV) status as a spouse or child of a United States citizen pursuant to clause (i) of section 204(a)(1)(A) of such Act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such Act; or

(B) an alien—

(i) whose child has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, and the alien did not actively participate in such battery or cruelty, but only if (in the opinion of the Attorney General, which opinion is not subject to review by any court) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided; and

(ii) who meets the requirement of clause (ii) of subparagraph (A).

Such term shall not apply to an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

(d) INELIGIBLE ALIEN DEFINED.—For purposes of this section, the term "ineligible alien" means an individual who is not—

(1) a citizen or national of the United States; or

(2) an eligible alien.

(e) MEANS-TESTED PUBLIC BENEFIT.—For purposes of this section, the term "means-tested public benefit" means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or by a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for the benefit or the amount of the benefit, or both, are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to benefits provided on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY.—The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 502. GRANTS, CONTRACTS, AND LICENSES.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, an ineligible alien (as defined in section 501(d)) shall not be eligible for any grant, contract, loan, professional license, driver's license, or commercial license provided or funded by any agency of the United States or any State or political subdivision of a State.

(b) EXCEPTIONS.—

(1) NONIMMIGRANT ALIEN AUTHORIZED TO WORK IN THE UNITED STATES.—Subsection (a) shall not apply to an alien in lawful nonimmigrant status who is authorized to work in the United States with respect to the following:

(A) Any professional or commercial license required to engage in such work.

(B) Any contract.

(C) A driver's license.

(2) NONIMMIGRANT ALIEN.—Subsection (a) shall not apply to an alien in lawful nonimmigrant status with respect to a driver's license.

(3) ALIEN OUTSIDE THE UNITED STATES.—Subsection (a) shall not apply to an alien who is outside of the United States with respect to any contract.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to contracts or loan agreements entered into, and professional, commercial, and driver's licenses issued (or renewed), on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 30 days, and not more than 60 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

(3) WAIVER AUTHORITY.—The Attorney General is authorized to waive any provision of this section in the case of applications pending on the effective date of such provision.

SEC. 503. UNEMPLOYMENT BENEFITS.

(a) ELIMINATION OF CREDITING EMPLOYMENT MERELY ON BASIS OF PRUCOL STATUS.—Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ", was lawfully" and inserting "or was lawfully", and

(2) by striking ", or was permanently" and all that follows up to the comma at the end.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to certifications of States for 1998 and subsequent years, or for 1999 and subsequent years in the case of States the legislatures of which do not meet in a regular session which closes in the calendar year 1997.

(c) REPORT.—The Secretary of Labor, in consultation with the Attorney General, shall provide for a study of the impact of limiting eligibility for unemployment compensation only to individuals who are citizens or nationals of the United States or eligible aliens (as defined in section 501(c)). Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on such study to the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate and the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives.

SEC. 504. SOCIAL SECURITY BENEFITS.

(a) INELIGIBILITY OF ALIENS NOT LAWFULLY PRESENT FOR SOCIAL SECURITY BENEFITS.—

(1) IN GENERAL.—Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end the following new subsection:

"Limitation on Payments to Aliens

"(y) Notwithstanding any other provision of law, no monthly benefit under this title shall be payable to any alien in the United States for any month during which such alien is not lawfully present in the United States as determined by the Attorney General.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to benefits for which applications are filed on or after the first day of the first month that begins at least 60 days after the date of the enactment of this Act.

(b) NO CREDITING FOR UNAUTHORIZED EMPLOYMENT.—

(1) IN GENERAL.—Section 210 of such Act (42 U.S.C. 410) is amended by adding at the end the following new subsection:

"Demonstration of Required Citizenship Status

"(s) For purposes of this title, service performed by an individual in the United States shall constitute 'employment' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such service was performed by such individual while such individual was a citizen, a national, a permanent resident, or otherwise authorized to be employed in the United States in such service.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services performed after December 31, 1996.

(c) TRADE OR BUSINESS.—

(1) IN GENERAL.—Section 211 of such Act (42 U.S.C. 411) is amended by adding at the end the following new subsection:

"Demonstration of Required Citizenship Status

"(j) For purposes of this title, a trade or business (as defined in subsection (c)) carried on in

the United States by any individual shall constitute a 'trade or business' only if it is demonstrated to the satisfaction of the Commissioner of Social Security that such trade or business (as so defined) was carried on by such individual while such individual was a citizen, a national, a permanent resident, or otherwise lawfully present in the United States carrying on such trade or business.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to any trade or business carried on after December 31, 1996.

(d) CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to affect the application of chapter 2 or chapter 21 of the Internal Revenue Code of 1986.

SEC. 505. REQUIRING PROOF OF IDENTITY FOR CERTAIN PUBLIC ASSISTANCE.

(a) REVISION OF SAVE PROGRAM.—

(1) IN GENERAL.—Paragraph (2) of section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)) is amended to read as follows:

"(2) There must be presented the item (or items) described in one of the following subparagraphs for that individual:

"(A) A United States passport (either current or expired if issued both within the previous 12 years and after the individual attained 18 years of age).

"(B) A resident alien card or an alien registration card, if the card (i) contains a photograph of the individual and (ii) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

"(C) A driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual.

"(D) If the individual attests to being a citizen or national of the United States and that the individual does not have other documentation under this paragraph (under penalty of perjury), such other documents or evidence that identify the individual as the Attorney General may designate as constituting reasonable evidence indicating United States citizenship or nationality.".

(2) TEMPORARY ELIGIBILITY FOR BENEFITS.—Section 1137(d) of such Act is further amended by adding after paragraph (5) the following new paragraph (6):

"(6) If at the time of application for benefits, the documentation under paragraph (2) is not presented or verified, such benefits may be provided to the applicant for not more than 2 months, if—

"(A) the applicant provides a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States, or

"(B) the applicant provides documentation certified by the Department of State or the Department of Justice, which the Attorney General determines constitutes reasonable evidence indicating satisfactory immigration status.".

(3) CONFORMING AMENDMENTS.—Section 1137(d) of such Act is further amended in paragraph (3), by striking "(2)(A) is presented" and inserting "(2)(B) is presented and contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number)".

(b) SSI.—Section 1631(e) of such Act (42 U.S.C. 1383(e)(7)) is amended by adding at the end the following new paragraph:

"(8) The Commissioner of Social Security shall provide for the application under this title of rules similar to the requirements of section 1137(d), insofar as they apply to the verification of immigration or citizenship status for eligibility for supplemental security income benefits under this title.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section shall apply to application for benefits filed on or after such date as the Attorney General specifies in regulations under paragraph (2). Such date shall be at least 60 days, and not more than 90 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out this section (and the amendments made by this section) not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

SEC. 506. AUTHORIZATION FOR STATES TO REQUIRE PROOF OF ELIGIBILITY FOR STATE PROGRAMS.

(a) IN GENERAL.—In carrying out this title (and the amendments made by this title), subject to section 510, a State or political subdivision is authorized to require an applicant for benefits under a program of a State or political subdivision to provide proof of eligibility consistent with the provisions of this title.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 507. LIMITATION ON ELIGIBILITY FOR PREFERENTIAL TREATMENT OF ALIENS NOT LAWFULLY PRESENT ON BASIS OF RESIDENCE FOR HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

(b) EFFECTIVE DATE.—This section shall apply to benefits provided on or after July 1, 1998.

SEC. 508. VERIFICATION OF STUDENT ELIGIBILITY FOR POSTSECONDARY FEDERAL STUDENT FINANCIAL ASSISTANCE.

(a) IN GENERAL.—No student shall be eligible for postsecondary Federal student financial assistance unless—

(1) the student has certified that the student is a citizen or national of the United States or an alien lawfully admitted for permanent residence, and

(2) the Secretary of Education has verified such certification.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Education and the Commissioner of Social Security shall jointly submit to the appropriate committees of the Congress a report on the computer matching program of the Department of Education under section 484(p) of the Higher Education Act of 1965.

(2) REPORT ELEMENTS.—The report under paragraph (1) shall include the following:

(A) An assessment by the Secretary and the Commissioner of the effectiveness of the computer matching program, and a justification for such assessment.

(B) The ratio of successful matches under the program to inaccurate matches.

(C) Such other information as the Secretary and the Commissioner jointly consider appropriate.

(3) APPROPRIATE COMMITTEES OF THE CONGRESS.—For purposes of this subsection the term "appropriate committees of the Congress" means the Committee on Economic and Educational Opportunities and the Committee on the Judiciary of the House of Representatives and the Committee on Labor and Human Resources and the Committee on the Judiciary of the Senate.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 509. VERIFICATION OF IMMIGRATION STATUS FOR PURPOSES OF SOCIAL SECURITY AND HIGHER EDUCATIONAL ASSISTANCE.

(a) SOCIAL SECURITY ACT STATE INCOME AND ELIGIBILITY VERIFICATION SYSTEMS.—Section 1137(d)(4)(B)(i)) of the Social Security Act (42 U.S.C. 1320b–7(d)(4)(B)(i)) is amended to read as follows:

"(i) the State shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

(b) ELIGIBILITY FOR ASSISTANCE UNDER HIGHER EDUCATION ACT OF 1965.—Section 484(g)(4)(B)(i) of the Higher Education Act of 1965 (20 U.S.C. 1091(g)(4)(B)(i)) is amended to read as follows:

"(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,".

SEC. 510. NO VERIFICATION REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.

(a) IN GENERAL.—Subject to subsection (b), and notwithstanding any other provision of this title, a nonprofit charitable organization, in providing any means-tested public benefit (as defined in section 501(e), but not including any hospital benefit, as defined by the Attorney General in consultation with Secretary of Health and Human Services) is not required to determine, verify, or otherwise require proof of eligibility of any applicant for such benefits.

(b) REQUIREMENT OF STATE OR FEDERAL DETERMINATION OF ELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), in order for a nonprofit charitable organization to provide to an applicant any means-tested public benefit, the organization shall obtain the following:

(A) In the case of a citizen or national of the United States, a written attestation (under penalty of perjury) that the applicant is a citizen or national of the United States.

(B) In the case of an alien and subject to paragraph (2), written verification, from an appropriate State or Federal agency, of the applicant's eligibility for assistance or benefits and the amount of assistance or benefits for which the applicant is eligible.

(2) NO NOTIFICATION WITHIN 10 DAYS.—If the organization is not notified within 10 business days after a request of an appropriate State or Federal agency for verification under paragraph (1)(B), the requirement under paragraph (1) shall not apply to any means-tested public benefit provided to such applicant by the organization until 30 calendar days after such notification is received.

(3) LIMITATIONS.—

(A) PRIVATE FUNDS.—The requirement under paragraph (1) shall not apply to assistance or benefits provided through private funds.

(B) SECTION 501 EXCEPTED BENEFITS.—The requirement under paragraph (1) shall not apply to assistance or benefits described in section 501(b) which are not subject to the limitations of section 501(a).

(4) ADMINISTRATION.—

(A) IN GENERAL.—The Attorney General shall through regulation provide for an appropriate procedure for the verification required under paragraph (1)(B).

(B) TIME PERIOD FOR RESPONSE.— The appropriate State or Federal agencies shall provide for a response to a request for verification under paragraph (1)(B) of an applicant's eligibility

under section 501(a) of this title and the amount of eligibility under section 552 (or comparable provisions of State law as authorized under section 553 or 554) not later than 10 business days after the date the request is made.

(C) RECORDKEEPING.—If the Attorney General determines that recordkeeping is required for the purposes of this section, the Attorney General may require that such a record be maintained for not more than 90 days.

SEC. 511. GAO STUDY OF PROVISION OF MEANS-TESTED PUBLIC BENEFITS TO INELIGIBLE ALIENS ON BEHALF OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and to the Inspector General of the Department of Justice a report on the extent to which means-tested public benefits are being paid or provided to ineligible aliens in order to provide such benefits to individuals who are United States citizens or eligible aliens. Such report shall address the locations in which such benefits are provided and the incidence of fraud or misrepresentation in connection with the provision of such benefits.

(b) DEFINITIONS.—The terms "eligible alien", "ineligible alien", and "means-tested public benefits" have the meanings given such terms in section 501.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

SEC. 531. GROUND FOR EXCLUSION.

(a) IN GENERAL.—Paragraph (4) of section 212(a) (8 U.S.C. 1182(a)) is amended to read as follows:

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—(i) In determining whether an alien is excludable under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is excludable under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A), or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(g)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is excludable under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications submitted on or after such date, not earlier than 30 days and not later than 60 days after the date the Attorney General promulgates under section 551(e) a standard form for an affidavit of support, as the Attorney General shall specify, but subparagraphs (C) and (D) of section 212(a)(4) of the Immigration and Nationality Act, as so amended, shall not apply to applications with respect to which an official interview with an immigration officer was conducted before such effective date.

SEC. 532. GROUND FOR DEPORTATION.

(a) IMMIGRANTS.—Section 241(a)(5) (8 U.S.C. 1251(a)(5)) is amended to read as follows:

"(5) PUBLIC CHARGE.—

"(A) IN GENERAL.—

"(i) Except as provided in subparagraph (B), an immigrant who during the public charge period becomes a public charge, regardless of when the cause for becoming a public charge arises, is deportable.

"(ii) The immigrant shall be subject to deportation under this paragraph only if the deportation proceeding is initiated not later than the end of the 7-year period beginning on the last date the immigrant receives a benefit described in subparagraph (D) during the public charge period.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to an alien granted asylum under section 208;

"(ii) to an alien admitted as a refugee under section 207; or

"(iii) if the cause of the alien's becoming a public charge—

"(I) arose after entry in the case of an alien who entered as an immigrant or after adjustment to lawful permanent resident status in the case of an alien who entered as a nonimmigrant, and

"(II) was a physical illness or physical injury so serious the alien could not work at any job, or was a mental disability that required continuous institutionalization.

"(C) DEFINITIONS.—

"(i) PUBLIC CHARGE PERIOD.—For purposes of subparagraph (A), the term 'public charge period' means the period ending 7 years after the date on which the alien attains the status of an alien lawfully admitted for permanent residence (or attains such status on a conditional basis).

"(ii) PUBLIC CHARGE.—For purposes of subparagraph (A), the term 'public charge' includes any alien who receives benefits described in subparagraph (D) for an aggregate period of at least 12 months or 36 months in the case of an alien described in subparagraph (E).

"(D) BENEFITS DESCRIBED.—

"(i) IN GENERAL.—Subject to clause (ii), the benefits described in this subparagraph are means-tested public benefits defined under section 213A(e)(1).

"(ii) EXCEPTIONS.—Benefits described in this subparagraph shall not include the following:

"(I) Any benefits to which the exceptions described in section 213A(e)(2) apply.

"(II) Emergency medical assistance (as defined in subparagraph (F)).

"(III) Payments for foster care and adoption assistance under parts B and E of title IV of the Social Security Act made on the child's behalf under such part.

"(IV) Benefits under laws administered by the Secretary of Veterans Affairs and any other benefit available by reason of service in the United States Armed Forces.

"(V) Benefits under the Head Start Act.

"(VI) Benefits under the Job Training Partnership Act.

"(VII) Benefits under any English as a second language program.

"(iii) SUCCESSOR PROGRAMS.—Benefits described in this subparagraph shall include any benefits provided under any successor program as identified by the Attorney General in consultation with other appropriate officials.

"(E) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—Subject to the second sentence of this subparagraph, an alien is described under this subparagraph if the alien demonstrates that—

"(i)(I) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced to such battery or cruelty, or (II) the alien's child has been battered or subjected to extreme cruelty in the United States by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty;

"(ii) the need for benefits described in subparagraph (D) beyond an aggregate period of 12 months has a substantial connection to the battery or cruelty described in clause (i); and

"(iii) any battery or cruelty under clause (i) has been recognized in an order of a judge or an administrative law judge or a prior determination of the Service.

An alien shall not be considered to be described under this subparagraph during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual subjected to such battery or cruelty.

"(F) EMERGENCY MEDICAL ASSISTANCE.—

"(i) IN GENERAL.—For purposes of subparagraph (C)(ii)(II), the term 'emergency medical assistance' means medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

"(ii) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subparagraph, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(I) placing the patient's health in serious jeopardy,

"(II) serious impairment to bodily functions, or

"(III) serious dysfunction of any bodily organ or part.".

(b) EXCLUSION AND DEPORTATION OF NONIMMIGRANTS COMMITTING FRAUD OR MISREPRESENTATION IN OBTAINING BENEFITS.—

(1) EXCLUSION.—Section 212(a)(6)(C) (8 U.S.C. 1182(a)(6)(C)), as amended by section 344(a), is amended—

(A) by redesignating clause (iii) as clause (iv), and

(B) by inserting after clause (ii) the following clause (iii):

"(iii) NONIMMIGRANT PUBLIC BENEFIT RECIPIENTS.—Any alien who was admitted as a nonimmigrant and who has obtained benefits for which the alien was ineligible, through fraud or misrepresentation, under Federal law is excludable for a period of 5 years from the date of the alien's departure from the United States.".

(2) DEPORTATION.—Section 241(a)(1)(C) (8 U.S.C. 1251(a)(1)(C)) is amended by adding after clause (ii) the following:

"(iii) NONIMMIGRANT PUBLIC BENEFIT RECIPIENTS.—Any alien who was admitted as a nonimmigrant and who has obtained through fraud or misrepresentation benefits for which the alien was ineligible under Federal law is deportable.".

(c) INELIGIBILITY TO NATURALIZATION FOR ALIENS DEPORTABLE AS PUBLIC CHARGE.—

(1) IN GENERAL.—Chapter 2 of title III of the Act is amended by inserting after section 315 the following new section:"

INELIGIBILITY TO NATURALIZATION FOR PERSONS DEPORTABLE AS PUBLIC CHARGE

"SEC. 315A. (a) A person shall not be naturalized if the person is deportable as a public charge under section 241(a)(5).

"(b) An applicant for naturalization shall provide a written attestation, under penalty of perjury, as part of the application for naturalization that the applicant is not deportable as a public charge under section 241(a)(5) to the best of the applicant's knowledge.

"(c) The Attorney General shall make a determination that each applicant for naturalization is not deportable as a public charge under section 241(a)(5).".

(2) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 315 the following:

"Sec. 315A. Ineligibility to naturalization for persons deportable as public charge".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in this paragraph, the amendment made by subsection (a) shall apply only to aliens who obtain the status of an alien lawfully admitted for permanent residence more than 30 days after the date of the enactment of this Act.

(B) APPLICATION TO CURRENT ALIENS.—Such amendments shall apply also to aliens who obtained the status of an alien lawfully admitted for permanent residence less than 30 days after the date of the enactment of this Act, but only with respect to benefits received after the 1-year period beginning on the date of enactment and benefits received before such period shall not be taken into account.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply to fraud or misrepresentation committed before, on, or after such date.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act and shall apply to applications submitted on or after 30 days after the date of the enactment of this Act.

Subtitle C—Affidavits of Support and Attribution of Income

SEC. 551. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) IN GENERAL.—Title II is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) TERMS OF AFFIDAVIT.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) unless such affidavit is executed by a sponsor of the alien as a contract—

"(A) in which the sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than the appropriate percentage (applicable to the sponsor under subsection (g)) of the Federal poverty line during the period in which the affidavit is enforceable;

"(B) that is legally enforceable against the sponsor by the sponsored alien, the Federal Government, any State (or any political subdivision of such State), or by any other entity that provides any means-tested public benefit (as defined in subsection (e)), consistent with the provisions of this section; and

"(C) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (b)(2).

"(2) PERIOD OF ENFORCEABILITY.—An affidavit of support shall be enforceable with respect to benefits provided for an alien before the date the alien is naturalized as a citizen of the United States, or, if earlier, the termination date provided under paragraph (3).

"(3) TERMINATION OF PERIOD OF ENFORCEABILITY UPON COMPLETION OF REQUIRED PERIOD OF EMPLOYMENT, ETC.—

"(A) IN GENERAL.—An affidavit of support is not enforceable on or after the first day of a year if it is demonstrated to the satisfaction of the Attorney General that the sponsored alien may be credited with an aggregate of 40 qualifying quarters under this paragraph for previous years.

"(B) QUALIFYING QUARTER DEFINED.—For purposes this paragraph, the term 'qualifying quarter' means a qualifying quarter of coverage under title II of the Social Security Act in which the sponsored alien—

"(i) has earned at least the minimum necessary for the period to count as one of the 40 quarters required to qualify for social security retirement benefits; and

"(ii) has not received any means-tested public benefit.

"(C) CREDITING FOR DEPENDENTS AND SPOUSES.—For purposes of this paragraph, in determining the number of qualifying quarters for which a sponsored alien has worked for purposes of subparagraph (A), a sponsored alien not meeting the requirement of subparagraph (B)(i) for any quarter shall be treated as meeting such requirements if—

"(i) their spouse met such requirement for such quarter and they filed a joint income tax return covering such quarter; or

"(ii) the individual who claimed such sponsored alien as a dependent on an income tax return covering such quarter met such requirement for such quarter.

"(D) PROVISION OF INFORMATION TO SAVE SYSTEM.—The Attorney General shall ensure that appropriate information regarding the application of this paragraph is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

"(b) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) REQUIREMENT.—Upon notification that a sponsored alien has received any means-tested public benefit, the appropriate nongovernmental entity which provided such benefit or the appropriate entity of the Federal Government, a State, or any political subdivision of a State shall request reimbursement by the sponsor in an amount which is equal to the unreimbursed costs of such benefit.

"(B) REGULATIONS.—The Attorney General, in consultation with the heads of other appropriate Federal agencies, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) ACTIONS TO COMPEL REIMBURSEMENT.—

"(A) IN CASE OF NONRESPONSE.—If within 45 days after a request for reimbursement under paragraph (1)(A), the appropriate entity has not received a response from the sponsor indicating a willingness to commence payment an action may be brought against the sponsor pursuant to the affidavit of support.

"(B) IN CASE OF FAILURE TO PAY.—If the sponsor fails to abide by the repayment terms established by the appropriate entity, the entity may bring an action against the sponsor pursuant to the affidavit of support.

"(C) LIMITATION ON ACTIONS.—No cause of action may be brought under this paragraph later than 10 years after the date on which the sponsored alien last received any means-tested public benefit to which the affidavit of support applies.

"(3) USE OF COLLECTION AGENCIES.—If the appropriate entity under paragraph (1)(A) requests reimbursement from the sponsor or brings an action against the sponsor pursuant to the affidavit of support, the appropriate entity may appoint or hire an individual or other person to act on behalf of such entity acting under the authority of law for purposes of collecting any amounts owed.

"(c) REMEDIES.—Remedies available to enforce an affidavit of support under this section include any or all of the remedies described in section 3201, 3203, 3204, or 3205 of title 28, United States Code, as well as an order for specific performance and payment of legal fees and other costs of collection, and include corresponding remedies available under State law. A Federal agency may seek to collect amounts owed under this section in accordance with the provisions of subchapter II of chapter 37 of title 31, United States Code.

"(d) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) GENERAL REQUIREMENT.—The sponsor shall notify the Attorney General and the State in which the sponsored alien is currently a resident within 30 days of any change of address of the sponsor during the period in which an affidavit of support is enforceable.

"(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall, after notice and opportunity to be heard, be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit described in section 241(a)(5)(D) not less than $2,000 or more than $5,000.

The Attorney General shall enforce this paragraph under appropriate regulations.

"(e) MEANS-TESTED PUBLIC BENEFIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'means-tested public benefit' means any public benefit (including cash, medical, housing, food, and social services) provided or funded in whole or in part by the Federal Government, or of a State or political subdivision of a State, in which the eligibility of an individual, household, or family eligibility unit for such benefit or the amount of such benefit, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

"(2) EXCEPTIONS.—Such term does not include the following benefits:

"(A) Short-term noncash emergency disaster relief.

"(B) Assistance or benefits under—

"(i) the National School Lunch Act (42 U.S.C. 1751 et seq.);

"(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

"(iii) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

"(iv) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note);

"(v) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note); and

"(vi) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

"(C) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such disease

(which may not include treatment for HIV infection or acquired immune deficiency syndrome).

"(D) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

"(E) Benefits under any means-tested programs under the Elementary and Secondary Education Act of 1965.

"(F) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence) and short-term, shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

"(i) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

"(ii) such service or assistance is necessary for the protection of life, safety, or public health; and

"(iii) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

"(f) JURISDICTION.—An action to enforce an affidavit of support executed under subsection (a) may be brought against the sponsor in any appropriate court—

"(1) by a sponsored alien, with respect to financial support; or

"(2) by the appropriate entity of the Federal Government, a State or any political subdivision of a State, or by any other nongovernmental entity under subsection (b)(2), with respect to reimbursement.

"(g) SPONSOR DEFINED.—

"(1) IN GENERAL.—For purposes of this section the term 'sponsor' in relation to a sponsored alien means an individual who executes an affidavit of support with respect to the sponsored alien and who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is at least 18 years of age;

"(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States;

"(D) is petitioning for the admission of the alien under section 204; and

"(E) demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line).

"(2) INCOME REQUIREMENT CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line and accepts joint and several liability together with an individual under paragraph (5).

"(3) ACTIVE DUTY ARMED SERVICES CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(E) but is on active duty (other than active duty for training) in the Armed Forces of the United States, is petitioning for the admission of the alien under section 204 as the spouse or child of the individual, and demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 100 percent of the Federal poverty line.

"(4) CERTAIN EMPLOYMENT-BASED IMMIGRANTS CASE.—Such term also includes an individual—

"(A) who does not meet the requirement of paragraph (1)(D), but is the relative of the sponsored alien who filed a classification petition for the sponsored alien as an employment-based immigrant under section 203(b) or who has a significant ownership interest in the entity that filed such a petition; and

"(B)(i) who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line), or

"(ii) does not meet the requirement of paragraph (1)(E) but demonstrates (as provided in paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line and accepts joint and several liability together with an individual under paragraph (5).

"(5) NON-PETITIONING CASE.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 200 percent of the Federal poverty line (or in the case of an affidavit for a spouse or minor child of the petitioner 140 percent of the Federal poverty line).

"(6) DEMONSTRATION OF MEANS TO MAINTAIN INCOME.—

"(A) IN GENERAL.—

"(i) METHOD OF DEMONSTRATION.—For purposes of this section, a demonstration of the means to maintain income shall include provision of a certified copy of the individual's Federal income tax return for the individual's 3 most recent taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are certified copies of such returns.

"(ii) PERCENT OF POVERTY.—For purposes of this section, a reference to an annual income equal to at least a particular percentage of the Federal poverty line means an annual income equal to at least such percentage of the Federal poverty line for a family unit of a size equal to the number of members of the sponsor's household (including family and non-family dependents) plus the total number of other dependents and aliens sponsored by that sponsor.

"(B) LIMITATION.—The Secretary of State, or the Attorney General in the case of adjustment of status, may provide that the demonstration under subparagraph (A) applies only to the most recent taxable year.

"(h) FEDERAL POVERTY LINE DEFINED.—For purposes of this section, the term 'Federal poverty line' means the level of income equal to the official poverty line (as defined by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services, in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902)) that is applicable to a family of the size involved.

"(i) SPONSOR'S SOCIAL SECURITY ACCOUNT NUMBER REQUIRED TO BE PROVIDED.—(1) An affidavit of support shall include the social security account number of each sponsor.

"(2) The Attorney General shall develop an automated system to maintain the social security account number data provided under paragraph (1).

"(3) The Attorney General shall submit an annual report to the Committees on the Judiciary of the House of Representatives and the Senate setting forth—

"(A) for the most recent fiscal year for which data are available the number of sponsors under this section and the number of sponsors in compliance with the financial obligations of this section; and

"(B) a comparison of such numbers with the numbers of such sponsors for the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZATION.—Section 316(a) (8 U.S.C. 1427(a)) is amended by striking "and" before "(3)", and by inserting before the period at the end the following: ", and (4) in the case of an applicant that has received assistance under a means-tested public benefits program (as defined in subsection (e) of section 213A) and with respect to which amounts are owing under an affidavit of support executed under such section, provides satisfactory evidence that there are no outstanding amounts that are owing pursuant to such affidavit by any sponsor who executed such affidavit".

(d) EFFECTIVE DATE; PROMULGATION OF FORM.—

(1) IN GENERAL.—The amendments made by this section shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under paragraph (2).

(2) PROMULGATION OF FORM.—Not later than 90 days after the date of the enactment of this Act, the Attorney General, in consultation with the heads of other appropriate agencies, shall promulgate a standard form for an affidavit of support consistent with the provisions of section 213A of the Immigration and Nationality Act.

SEC. 552. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO SPONSORED IMMIGRANTS.

(a) DEEMING REQUIREMENT FOR FEDERAL MEANS-TESTED PUBLIC BENEFITS.—Subject to subsections (d) and (h), for purposes of determining the eligibility of an alien for any Federal means-tested public benefit, and the amount of such benefit, income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be income and resources of such alien.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection shall include the income and resources of—

(1) each sponsor under section 213A of the Immigration and Nationality Act;

(2) each person who, as a sponsor of an alien's entry into the United States, or in order to enable an alien lawfully to remain in the United States, executed an affidavit of support or similar agreement other than under section 213A with respect to such alien, and

(3) each sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—

(1) IN GENERAL.—Subject to paragraph (3), for an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, the requirement of subsection (a) shall apply until the alien is naturalized as a citizen of the United States.

(2) SPECIAL RULE FOR OUTDATED AFFIDAVIT OF SUPPORT.—Subject to paragraph (3), for an alien for whom an affidavit of support has been executed other than as required under section 213A of the Immigration and Nationality Act, the requirement of subsection (a) shall apply for a period of 5 years beginning on the day such alien was provided lawful permanent resident status after the execution of such affidavit or agreement, but in no case after the date of naturalization of the alien.

(3) EXCEPTION TO GENERAL RULE.—Subsection (a) shall not apply and the period of attribution of a sponsor's income and resources under this subsection with respect to an alien shall terminate at such time as an affidavit of support of such sponsor with respect to the alien becomes no longer enforceable under section 213A(a)(3) of the Immigration and Nationality Act.

(4) PROVISION OF INFORMATION TO SAVE.—The Attorney General shall ensure that appropriate information regarding sponsorship and the operation of this section is provided to the system for alien verification of eligibility (SAVE) described in section 1137(d)(3) of the Social Security Act (42 U.S.C. 1320b-7(d)(3)).

(d) EXCEPTIONS.—

(1) INDIGENCE.—

(A) IN GENERAL.—For an alien for whom an affidavit of support under section 213A of the Immigration and Nationality Act has been executed, if a determination described in subparagraph (B) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored alien shall not exceed the amount actually provided for a period beginning on the date of such determination and ending 12 months after such date.

(B) DETERMINATION DESCRIBED.—A determination described in this subparagraph is a determination by an agency that a sponsored alien would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the alien's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor. The agency shall notify the Attorney General of each such determination, including the names of the sponsor and the sponsored alien involved.

(2) EXCEPTED BENEFITS.—The requirements of subsection (a) shall not apply to the following:

(A)(i) Medical assistance under title XIX of the Social Security Act (or any successor program to such title) for care and services that are necessary for the treatment of an emergency medical condition of the alien involved and are not related to an organ transplant procedure.

(ii) For purposes of this subparagraph, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(I) placing the patient's health in serious jeopardy,

(II) serious impairment to bodily functions, or

(III) serious dysfunction of any bodily organ or part.

(B) Short-term noncash emergency disaster relief.

(C) Assistance or benefits under—

(i) the National School Lunch Act (42 U.S.C. 1751 et seq.);

(ii) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(iii) section 4 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86; 7 U.S.C. 612c note);

(iv) the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note);

(v) section 110 of the Hunger Prevention Act of 1988 (Public Law 100–435; 7 U.S.C. 612c note); and

(vi) the food distribution program on Indian reservations established under section 4(b) of Public Law 88–525 (7 U.S.C. 2013(b)).

(D) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment for such disease (which may not include treatment for HIV infection or acquired immune deficiency syndrome).

(E) Benefits under programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965 and titles III, VII, and VIII of the Public Health Service Act.

(F) Benefits under any means-tested programs under the Elementary and Secondary Education Act of 1965.

(G) Such other in-kind service or noncash assistance (such as soup kitchens, crisis counseling, intervention (including intervention for domestic violence) and short-term, shelter) as the Attorney General specifies, in the Attorney General's sole and unreviewable discretion, after consultation with the heads of appropriate Federal agencies, if—

(i) such service or assistance is delivered at the community level, including through public or private nonprofit agencies;

(ii) such service or assistance is necessary for the protection of life, safety, or public health; and

(iii) such service or assistance or the amount or cost of such service or assistance is not conditioned on the recipient's income or resources.

(e) FEDERAL MEANS-TESTED PUBLIC BENEFIT DEFINED.—The term "Federal means-tested public benefit" means any public benefit (including cash, medical, housing, and food assistance and social services) provided or funded in whole or in part by the Federal Government in which the eligibility of an individual, household, or family eligibility unit for the benefit, or the amount of the benefit, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit.

(f) SPECIAL RULE FOR BATTERED SPOUSE AND CHILD.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of this section, subsection (a) shall not apply to benefits—

(A) during a 12 month period if the alien demonstrates that (i) the alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse or parent's family residing in the same household as the alien and the spouse or parent consented to or acquiesced to such battery or cruelty, or (ii) the alien's child has been battered or subjected to extreme cruelty in the United States by the spouse or parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented or acquiesced to and the alien did not actively participate in such battery or cruelty, and the battery or cruelty described in clause (i) or (ii) (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the public benefits applied for; and

(B) after a 12 month period (regarding the batterer's income and resources only) if the alien demonstrates that such battery or cruelty under subparagraph (A) has been recognized in an order of a judge or administrative law judge or a prior determination of the Immigration and Naturalization Service, and that such battery or cruelty (in the opinion of the agency providing such public benefits, which opinion is not subject to review by any court) has a substantial connection to the need for the benefits.

(2) LIMITATION.—The exception under paragraph (1) shall not apply to benefits for an alien during any period in which the individual responsible for such battery or cruelty resides in the same household or family eligibility unit as the individual who was subjected to such battery or cruelty.

(g) APPLICATION.—

(1) IN GENERAL.—The provisions of this section shall apply with respect to determinations of eligibility and amount of benefits for individuals for whom an application is filed on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

(2) REDETERMINATIONS.—This section shall apply with respect to any redetermination of eligibility and amount of benefits occurring on or after the date determined under paragraph (1).

(h) NO DEEMING REQUIREMENT FOR NONPROFIT CHARITABLE ORGANIZATIONS.—A nonprofit charitable organization operating any Federal means-tested public benefit program is not required to deem that the income or assets of any applicant for any benefit or assistance under such program include the income or assets described in subsection (b).

SEC. 553. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES AUTHORITY FOR STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized, for purposes of determining the eligibility of an alien for benefits and the amount of benefits, under any means-based public benefit program of a State or a political subdivision of a State (other than a program of assistance provided or funded, in whole or in part, by the Federal Government), to require that the income and resources of any individual under section 552(b) be deemed to be the income and resources of such alien.

(b) LIMITATIONS.—

(1) EXCEPTIONS.—Any attribution of income and resources pursuant to the authority of subsection (a) shall be subject to exceptions comparable to the exceptions of section 552(d).

(2) PERIOD OF DEEMING.—Any period of attribution of income and resources pursuant to the authority of subsection (a) shall not exceed the period of attribution under section 552(c).

SEC. 554. AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS OF STATES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL CASH PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 552(b)) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

Subtitle D—Miscellaneous Provisions

SEC. 561. INCREASED MAXIMUM CRIMINAL PENALTIES FOR FORGING OR COUNTERFEITING SEAL OF A FEDERAL DEPARTMENT OR AGENCY TO FACILITATE BENEFIT FRAUD BY AN UNLAWFUL ALIEN.

Section 506 of title 18, United States Code, is amended to read as follows:

"§506. Seals of departments or agencies

"(a) Whoever—

"(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

"(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such

seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

"(1) so forged, counterfeited, mutilated, or altered;

"(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

"(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

"(c) For purposes of this section—

"(1) the term 'Federal benefit' means—

"(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

"(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

"(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.".

SEC. 562. COMPUTATION OF TARGETED ASSISTANCE.

(a) IN GENERAL.—Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended by adding at the end the following new subparagraph:

"(C) All grants made available under this paragraph for a fiscal year (other than the Targeted Assistance Ten Percent Discretionary Program) shall be allocated by the Office of Resettlement in a manner that ensures that each qualifying county shall receive the same amount of assistance for each refugee and entrant residing in the county as of the beginning of the fiscal year who arrived in the United States not more than 60 months prior to such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for fiscal years after fiscal year 1996.

SEC. 563. TREATMENT OF EXPENSES SUBJECT TO EMERGENCY MEDICAL SERVICES EXCEPTION.

(a) IN GENERAL.—Subject to such amounts as are provided in advance in appropriation Acts, each State or political subdivision of a State that provides medical assistance for care and treatment of an emergency medical condition (as defined for purposes of section 501(b)(1)) through a public hospital or other public facility (including a nonprofit hospital that is eligible for an additional payment adjustment under section 1886 of the Social Security Act) or through contract with another hospital or facility to an individual who is an alien not lawfully present in the United States is eligible for payment from the Federal Government of its costs of providing such services, but only to the extent that such costs are not otherwise reimbursed through any other Federal program and cannot be recovered from the alien or another person.

(b) CONFIRMATION OF IMMIGRATION STATUS REQUIRED.—No payment shall be made under this section with respect to services furnished to an individual unless the immigration status of the individual has been verified through appropriate procedures established by the Secretary of Health and Human Services and the Attorney General.

(c) ADMINISTRATION.—This section shall be administered by the Attorney General, in consultation with the Secretary of Health and Human Services.

(d) EFFECTIVE DATE.—Subsection (a) shall apply to medical assistance for care and treatment of an emergency medical condition furnished on or after October 1, 1996.

SEC. 564. REIMBURSEMENT OF STATES AND LOCALITIES FOR EMERGENCY AMBULANCE SERVICES.

Subject to the availability of appropriations, the Attorney General shall fully reimburse States and political subdivisions of States for costs incurred by such a State or subdivision for emergency ambulance services provided to any alien who—

(1) is injured while crossing a land or sea border of the United States without inspection or at any time or place other than as designated by the Attorney General; and

(2) is under the custody of the State or subdivision pursuant to a transfer, request, or other action by a Federal authority.

SEC. 565. PILOT PROGRAMS TO REQUIRE BONDING.

(a) IN GENERAL.—

(1) The Attorney General of the United States shall establish a pilot program in 5 district offices of the Immigration and Naturalization Service to require aliens to post a bond in addition to the affidavit requirements under section 551 and the deeming requirements under section 552. Any pilot program established pursuant to this subsection shall require an alien to post a bond in an amount sufficient to cover the cost of benefits for the alien and the alien's dependents under the programs described in section 241(a)(5)(D) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(5)(D)) and shall remain in effect until the departure, naturalization, or death of the alien.

(2) Suit on any such bonds may be brought under the terms and conditions set forth in section 213A of the Immigration and Nationality Act.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations for establishing the pilot programs, including—

(1) criteria and procedures for—

(A) certifying bonding companies for participation in the program, and

(B) debarment of any such company that fails to pay a bond, and

(2) criteria for setting the amount of the bond to assure that the bond is in an amount that is not less than the cost of providing benefits under the programs described in section 241(a)(5)(D) for the alien and the alien's dependents for 6 months.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(d) ANNUAL REPORTING REQUIREMENT.—Beginning 9 months after the date of implementation of the pilot program, the Attorney General shall submit annually to the Committees on the Judiciary of the House of Representatives and the Senate a report on the effectiveness of the program. The Attorney General shall submit a final evaluation of the program not later than 1 year after termination.

(e) SUNSET.—The pilot program under this section shall terminate after 3 years of operation.

(f) BONDS IN ADDITION TO SPONSORSHIP AND DEEMING REQUIREMENTS.—Section 213 of the Immigration and Nationality Act (8 U.S.C. 1183) is amended by inserting "(subject to the affidavit of support requirement and attribution of sponsor's income and resources under section 213A)" after "in the discretion of the Attorney General".

SEC. 566. REPORTS.

Not later than 180 days after the end of each fiscal year, the Attorney General shall submit a report to the Inspector General of the Department of Justice and the Committees on the Judiciary of the House of Representatives and of the Senate describing the following:

(1) PUBLIC CHARGE DEPORTATIONS.—The number of aliens deported on public charge grounds under section 241(a)(5) of the Immigration and Nationality Act during the previous fiscal year.

(2) INDIGENT SPONSORS.—The number of determinations made under section 552(d)(1) of this Act (relating to indigent sponsors) during the previous fiscal year.

(3) REIMBURSEMENT ACTIONS.—The number of actions brought, and the amount of each action, for reimbursement under section 213A of the Immigration and Nationality Act (including private collections) for the costs of providing public benefits.

(4) VERIFICATIONS OF ELIGIBILITY.—The number of situations in which a Federal or State agency fails to respond within 10 days to a request for verification of eligibility under section 510(b), including the reasons for, and the circumstances of, each such failure.

Subtitle E—Housing Assistance

SEC. 571. SHORT TITLE.

This subtitle may be cited as the "Use of Assisted Housing by Aliens Act of 1996".

SEC. 572. PRORATING OF FINANCIAL ASSISTANCE.

Section 214(b) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

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

"(2) If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the eligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to such family by the Secretary of Housing and Urban Development shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.".

SEC. 573. ACTIONS IN CASES OF TERMINATION OF FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(c)(1) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(c)(1)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "on the date of the enactment of the Housing and Community Development Act of 1987"; and

(B) by striking "may, in its discretion," and inserting "shall";

(2) in subparagraph (A), by adding at the end the following new sentence: "Financial assistance continued under this subparagraph for a family shall be provided only on a prorated basis under which the amount of financial assistance is based on the percentage of the total number of members of the family that are eligible for such assistance under the program for financial assistance and under this section."; and

(3) by striking subparagraph (B), and inserting the following new subparagraph:

"(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other housing, subject to the following requirements:

"(i) Except as provided in clause (ii), any deferral under this subparagraph shall be for a single 3-month period.

"(ii) The time period referred to in clause (i) shall not apply in the case of a refugee under section 207 of the Immigration and Nationality Act or an individual seeking asylum under section 208 of such Act.".

(b) SCOPE OF APPLICATION.—

(1) IN GENERAL.—The amendment made by subsection (a)(3) shall apply to any deferral granted under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 on or after the date of the enactment of this Act.

(2) TREATMENT OF DEFERRALS AND RENEWALS GRANTED BEFORE ENACTMENT.—In the case of any deferral which was granted or renewed under section 214(c)(1)(B) of the Housing and Community Development Act of 1980 before the date of the enactment of this Act—

(A) if the deferral or renewal expires before the expiration of the 3-month period beginning upon such date of enactment, the deferral or renewal may, upon expiration of the deferral period, be renewed for not more than a single additional 3-month period; and

(B) if the deferral or renewal expires on or after the expiration of such 3-month period, the deferral or renewal may not be renewed or extended.

SEC. 574. VERIFICATION OF IMMIGRATION STATUS AND ELIGIBILITY FOR FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 214(d) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(d)) is amended—

(1) by striking the matter preceding paragraph (1) and inserting the following:

"(d) No individual applying for financial assistance shall receive such financial assistance before the affirmative establishment and verification of the eligibility of the individual under this subsection by the Secretary or other appropriate entity, and the following conditions shall apply with respect to financial assistance being or to be provided for the benefit of an individual:";

(2) in paragraph (1)—

(A) in subparagraph (A), by adding at the end the following: "If the declaration states that the individual is not a citizen or national of the United States and the individual is younger than 62 years of age, the declaration shall be verified by the Immigration and Naturalization Service.";

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) In the case of any individual who is younger than 62 years of age and is receiving or applying for financial assistance, there must be presented the item (or items) described in one of the following subparagraphs for that individual:

"(i) A United States passport (either current or expired if issued both within the previous 20 years and after the individual attained 18 years of age).

"(ii) A resident alien card or an alien registration card, if the card (i) contains a photograph of the individual and (ii) contains security features to make it resistant to tampering, counterfeiting, and fraudulent use.

"(iii) A driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual.

"(iv) If the individual attests to being a citizen or national of the United States and the individual does not have other documentation under this paragraph, such other documents or evidence that identify the individual, as the Attorney General may designate as constituting reasonable evidence indicating United States citizenship.".

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) In the case of an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is applying for financial assistance, the Secretary may not provide such assistance for the benefit of the individual before such documentation is presented and verified under paragraph (3) or (4).";

(4) in paragraph (3), by striking "(2)(A) is presented" and inserting "(1)(B)(ii) is presented and contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number)"

(5) in paragraph (4)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "on the date of the enactment of the Housing and Community Development Act of 1987" and inserting "or applying for financial assistance";

(ii) by striking "paragraph (2)" and inserting "paragraph (1)(B)(ii)"; and

(iii) by striking "paragraph (2)(A)" and inserting "paragraph (1)(B)(ii)";

(B) in subparagraph (A)—

(i) in clause (i)—

(I) by inserting ", not to exceed 30 days," after "reasonable opportunity"; and

(II) by striking "and" at the end; and

(ii) by striking clause (ii) and inserting the following new clauses:

"(ii) in the case of any individual who is receiving assistance, may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such 30-day period has expired, and

"(iii) in the case of any individual who is applying for financial assistance, may not deny the application for such assistance on the basis of the individual's immigration status until such 30-day period has expired; and"; and

(C) in subparagraph (B), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the Secretary shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

"(ii) pending such verification or appeal, the Secretary may not—

"(I) in the case of any individual who is receiving assistance, delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

"(II) in the case of any individual who is applying for financial assistance, deny the application for such assistance on the basis of the individual's immigration status, and";

(6) in paragraph (5), by striking all that follows "satisfactory immigration status" and inserting the following: ", the Secretary shall—

"(A) deny the individual's application for financial assistance or terminate the individual's eligibility for financial assistance, as the case may be,

"(B) provide the individual with written notice of the determination under this paragraph, which in the case of an individual who is receiving financial assistance shall also notify the individual of the opportunity for a hearing under subparagraph (C), and

"(C) in the case of an individual who is receiving financial assistance and requests a hearing under this subparagraph, provide a hearing within 5 days of receipt of the notice under subparagraph (B), at which hearing the individual may produce the documentation of immigration status required under this subsection or the reasons for the termination shall be explained and the individual shall be notified of his or her eligibility for deferral under subsection (c)(1)(B).";

(7) by striking paragraph (6) and inserting the following new paragraph:

"(6) The Secretary shall terminate the eligibility for financial assistance of an individual and the members of the household of the individual, for a period of not less than 24 months, upon determining that such individual has knowingly permitted another individual who is not eligible for such assistance to use the assistance (including residence in the unit receiving the assistance). This provision shall not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration under this section of assistance provided for the family."; and

(8) by striking the matter following paragraph (6) and inserting the following new paragraphs:

"(7) An owner of housing receiving financial assistance—

"(A) may initiate procedures to affirmatively establish or verify the eligibility of an individual or family under this section at any time at which the owner determines that such eligibility is in question, regardless of whether or not the individual or family is at or near the top of the waiting list for the housing;

"(B) shall affirmatively establish or verify the eligibility of an individual or family under this section in accordance with the procedures set forth in section 274A(b)(1) of the Immigration and Nationality Act; and

"(C) shall have access to any relevant information contained in the SAVE system (or any successor thereto) that relates to any individual or family applying for financial assistance.

"For purposes of this paragraph, the term 'owner' includes any public housing agency (as such term is defined in section 3 of the United States Housing Act of 1937). For purposes of this paragraph, when used in reference to a family, the term 'eligibility' means the eligibility of each member of the family.

"(8) For purposes of this subsection, the following definitions shall apply:

"(A) The term 'satisfactory immigration status' means an immigration status which does not make the individual ineligible for financial assistance.

"(B) The term 'Secretary' means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Notwithstanding section 576 of this Act, the amendment made by subsection (a)(2)(B) of this section shall apply to application for benefits filed on or after such date as the Attorney General specifies in regulations under paragraph (2) of this subsection. Such date shall be at least 60 days, and not more than 90 days, after the date the Attorney General first issues such regulations.

(2) REGULATIONS.—The Attorney General (in consultation with the heads of other appropriate agencies) shall first issue regulations to carry out the amendment made by subsection (a)(2)(B) of this section not later than 180 days after the date of the enactment of this Act. Such regulations shall be effective on an interim basis, pending change after opportunity for public comment.

SEC. 575. PROHIBITION OF SANCTIONS AGAINST ENTITIES MAKING FINANCIAL ASSISTANCE ELIGIBILITY DETERMINATIONS.

Section 214(e) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a(e)) is amended—

(1) in paragraph (2), by inserting "or" after the comma at the end;

(2) in paragraph (3), by inserting after ", or" at the end the following: "the response from the Immigration and Naturalization Service to the appeal of such individual."; and

(3) by striking paragraph (4).

SEC. 576. REGULATIONS.

(a) ISSUANCE.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue any regulations necessary to implement the amendments made by this subtitle. Such regulations shall be issued in the form of an interim final rule, which shall take effect upon issuance and shall not be subject to the provisions of section 533 of title 5, United States Code, regarding notice or an opportunity for comment.

(b) FAILURE TO ISSUE.—If the Secretary fails to issue the regulations required under subsection (a) before the expiration of the period referred to in such subsection, the regulations relating to restrictions on assistance to noncitizens, contained in the final rule issued by the Secretary of Housing and Urban Development in RIN 2501–AA63 (Docket No. R-95–1409; FR–2383–F–050), published in the Federal Register of March 20, 1995 (Vol. 60., No. 53; pp. 14824–14861), shall not apply after the expiration of such period.

SEC. 577. REPORT ON HOUSING ASSISTANCE PROGRAMS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committee on the Judiciary and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on the Judiciary and the Committee on Banking and Financial Services of the House of Representatives, describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 and containing statistics with respect to the number of individuals denied financial assistance under such section.

Subtitle F—General Provisions

SEC. 591. EFFECTIVE DATES.

Except as provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SEC. 592. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as an entitlement or a determination of an individual's eligibility or fulfillment of the requisite requirements for any Federal, State, or local governmental program, assistance, or benefits. For purposes of this title, eligibility relates only to the general issue of eligibility or ineligibility on the basis of alienage.

SEC. 593. NOT APPLICABLE TO FOREIGN ASSISTANCE.

This title does not apply to any Federal, State, or local governmental program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.

SEC. 594. NOTIFICATION.

(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title, shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

SEC. 595. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title—

(1) the terms "alien", "Attorney General", "national", "naturalization", "State", and "United States" shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act; and

(2) the term "child" shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Refugees, Parole, and Asylum

SEC. 601. PERSECUTION FOR RESISTANCE TO COERCIVE POPULATION CONTROL METHODS.

(a) DEFINITION OF REFUGEE.—

(1) Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by adding at the end the following: "For purposes of determinations under this Act, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.".

(2) Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and countries of origin of aliens granted refugee status or asylum under determinations pursuant to the amendment made by paragraph (1). Each such report shall also contain projections regarding the number and countries of origin of aliens that are likely to be granted refugee status or asylum for the subsequent 2 fiscal years.

(b) NUMERICAL LIMITATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(5) For any fiscal year, not more than a total of 1,000 refugees may be admitted under this subsection or granted asylum under section 208 pursuant to a determination under the third sentence of section 101(a)(42) (relating to persecution for resistance to coercive population control methods).".

SEC. 602. LIMITATION ON USE OF PAROLE

(a) PAROLE AUTHORITY.—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)) is amended by striking "for emergent reasons or for reasons deemed strictly in the public interest" and inserting "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit".

(b) REPORT TO CONGRESS.—Not later than 90 days after the end of each fiscal year, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and categories of aliens paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act. Each such report shall provide the total number of aliens paroled into and residing in the United States and shall contain information and data for each country of origin concerning the number and categories of aliens paroled, the duration of parole, the current status of aliens paroled, and the number and categories of aliens returned to the custody from which they were paroled during the preceding fiscal year.

SEC. 603. TREATMENT OF LONG-TERM PAROLEES IN APPLYING WORLDWIDE NUMERICAL LIMITATIONS.

Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by amending paragraph (1)(A)(ii) to read as follows:

"(ii) the sum of the number computed under paragraph (2) and the number computed under paragraph (4), plus"; and

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

"(4) The number computed under this paragraph for a fiscal year (beginning with fiscal year 1999) is the number of aliens who were paroled into the United States under section 212(d)(5) in the second preceding fiscal year—

"(A) who did not depart from the United States (without advance parole) within 365 days; and

"(B) who (i) did not acquire the status of aliens lawfully admitted to the United States for permanent residence in the two preceding fiscal years, or (ii) acquired such status in such years under a provision of law (other than section 201(b)) which exempts such adjustment from the numerical limitation on the worldwide level of immigration under this section.

"(5) If any alien described in paragraph (4) (other than an alien described in paragraph (4)(B)(ii)) is subsequently admitted as an alien lawfully admitted for permanent residence, such alien shall not again be considered for purposes of paragraph (1).".

SEC. 604. ASYLUM REFORM.

(a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"ASYLUM

"SEC. 208. (a) AUTHORITY TO APPLY FOR ASYLUM.—

"(1) IN GENERAL.—Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum in accordance with this section or, where applicable, section 235(b).

"(2) EXCEPTIONS.—

"(A) SAFE THIRD COUNTRY.—Paragraph (1) shall not apply to an alien if the Attorney General determines that the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

"(B) TIME LIMIT.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 1 year after the date of the alien's arrival in the United States.

"(C) PREVIOUS ASYLUM APPLICATIONS.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien if the alien has previously applied for asylum and had such application denied.

"(D) CHANGED CIRCUMSTANCES.—An application for asylum of an alien may be considered,

notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney General either the existence of changed circumstances which materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing an application within the period specified in subparagraph (B).

"(3) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review any determination of the Attorney General under paragraph (2).

"(b) CONDITIONS FOR GRANTING ASYLUM.—

"(1) IN GENERAL.—The Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Attorney General under this section if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to an alien if the Attorney General determines that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

"(v) the alien is inadmissible under subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or removable under section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien inadmissible under subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(vi) the alien was firmly resettled in another country prior to arriving in the United States.

"(B) SPECIAL RULES.—

"(i) CONVICTION OF AGGRAVATED FELONY.—For purposes of clause (ii) of subparagraph (A), an alien who has been convicted of an aggravated felony shall be considered to have been convicted of a particularly serious crime.

"(ii) OFFENSES.—The Attorney General may designate by regulation offenses that will be considered to be a crime described in clause (ii) or (iii) of subparagraph (A).

"(C) ADDITIONAL LIMITATIONS.—The Attorney General may by regulation establish additional limitations and conditions, consistent with this section, under which an alien shall be ineligible for asylum under paragraph (1).

"(D) NO JUDICIAL REVIEW.—There shall be no judicial review of a determination of the Attorney General under subparagraph (A)(v).

"(3) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

"(c) ASYLUM STATUS.—

"(1) IN GENERAL.—In the case of an alien granted asylum under subsection (b), the Attorney General—

"(A) shall not remove or return the alien to the alien's country of nationality or, in the case of a person having no nationality, the country of the alien's last habitual residence;

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with appropriate endorsement of that authorization; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(2) TERMINATION OF ASYLUM.—Asylum granted under subsection (b) does not convey a right to remain permanently in the United States, and may be terminated if the Attorney General determines that—

"(A) the alien no longer meets the conditions described in subsection (b)(1) owing to a fundamental change in circumstances;

"(B) the alien meets a condition described in subsection (b)(2);

"(C) the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien is eligible to receive asylum or equivalent temporary protection;

"(D) the alien has voluntarily availed himself or herself of the protection of the alien's country of nationality or, in the case of an alien having no nationality, the alien's country of last habitual residence, by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country; or

"(E) the alien has acquired a new nationality and enjoys the protection of the country of his or her new nationality.

"(3) REMOVAL WHEN ASYLUM IS TERMINATED.—An alien described in paragraph (2) is subject to any applicable grounds of inadmissibility or deportability under section 212(a) and 237(a), and the alien's removal or return shall be directed by the Attorney General in accordance with sections 240 and 241.

"(d) ASYLUM PROCEDURE.—

"(1) APPLICATIONS.—The Attorney General shall establish a procedure for the consideration of asylum applications filed under subsection (a). The Attorney General may require applicants to submit fingerprints and a photograph at such time and in such manner to be determined by regulation by the Attorney General.

"(2) EMPLOYMENT.—An applicant for asylum is not entitled to employment authorization, but such authorization may be provided under regulation by the Attorney General. An applicant who is not otherwise eligible for employment authorization shall not be granted such authorization prior to 180 days after the date of filing of the application for asylum.

"(3) FEES.—The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). Such fees shall not exceed the Attorney General's costs in adjudicating the applications. The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for adjudication services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

"(4) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing an application for asylum, the Attorney General shall—

"(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

"(B) provide the alien a list of persons (updated not less often than quarterly) who have indicated their availability to represent aliens in asylum proceedings on a pro bono basis.

"(5) CONSIDERATION OF ASYLUM APPLICATIONS.—

"(A) PROCEDURES.—The procedure established under paragraph (1) shall provide that—

"(i) asylum cannot be granted until the identity of the applicant has been checked against all appropriate records or databases maintained by the Attorney General and by the Secretary of State, including the Automated Visa Lookout System, to determine any grounds on which the alien may be inadmissible to or deportable from the United States, or ineligible to apply for or be granted asylum;

"(ii) in the absence of exceptional circumstances, the initial interview or hearing on the asylum application shall commence not later than 45 days after the date an application is filed;

"(iii) in the absence of exceptional circumstances, final administrative adjudication of the asylum application, not including administrative appeal, shall be completed within 180 days after the date an application is filed;

"(iv) any administrative appeal shall be filed within 30 days of a decision granting or denying asylum, or within 30 days of the completion of removal proceedings before an immigration judge under section 240, whichever is later; and

"(v) in the case of an applicant for asylum who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview or hearing, including a hearing under section 240, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

"(B) ADDITIONAL REGULATORY CONDITIONS.—The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.

"(6) FRIVOLOUS APPLICATIONS.—If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(7) NO PRIVATE RIGHT OF ACTION.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

(2) Section 104(d)(1)(A) of the Immigration Act of 1990 (Public Law 101-649) is amended by striking "208(b)" and inserting "208".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for asylum filed on or after the first day of the first month beginning more than 180 days after the date of the enactment of this Act.

SEC. 605. INCREASE IN ASYLUM OFFICERS.

Subject to the availability of appropriations, the Attorney General shall provide for an increase in the number of asylum officers to at least 600 asylum officers by fiscal year 1997.

SEC. 606. CONDITIONAL REPEAL OF CUBAN ADJUSTMENT ACT.

(a) IN GENERAL.—Public Law 89-732 is repealed effective only upon a determination by the President under section 203(c)(3) of the Cuban Liberty and Democratic Solidarity

(LIBERTAD) Act of 1996 (Public Law 104–114) that a democratically elected government in Cuba is in power.

(b) LIMITATION.—Subsection (a) shall not apply to aliens for whom an application for adjustment of status is pending on such effective date.

Subtitle B—Miscellaneous Amendments to the Immigration and Nationality Act

SEC. 621. ALIEN WITNESS COOPERATION.

Section 214(j)(1) (8 U.S.C. 1184(j)(1)) (as added by section 130003(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2025)) (relating to numerical limitations on the number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)) is amended—

(1) by striking "100." and inserting "200."; and

(2) by striking "25." and inserting "50.".

SEC. 622. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF WAIVER PROGRAM.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking "1996." and inserting "2002.".

(b) CONDITIONS ON FEDERALLY REQUESTED WAIVERS.—Section 212(e) (8 U.S.C. 1182(e)) is amended by inserting after "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent" the following: ", or in the case of a waiver requested by an interested United States Government agency on behalf of an alien described in clause (iii),".

(c) RESTRICTIONS ON FEDERALLY REQUESTED WAIVERS.—Section 214(k) (8 U.S.C. 1184(k)) (as added by section 220(b) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4319)) is amended to read as follows:

"(k)(1) In the case of a request by an interested State agency, or by an interested Federal agency, for a waiver of the 2-year foreign residence requirement under section 212(e) on behalf of an alien described in clause (iii) of such section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) in the case of a request by an interested State agency, the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed 20;

"(C) in the case of a request by an interested Federal agency or by an interested State agency—

"(i) the alien demonstrates a bona fide offer of full-time employment at a health facility or health care organization, which employment has been determined by the Attorney General to be in the public interest; and

"(ii) the alien agrees to begin employment with the health facility or health care organization within 90 days of receiving such waiver, and agrees to continue to work for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances exist, such as closure of the facility or hardship to the alien, which would justify a lesser period of employment at such health facility or health care organization, in which case the alien must demonstrate another bona fide offer of employment at a health facility or health care organization for the remainder of such 3-year period); and

"(D) in the case of a request by an interested Federal agency (other than a request by an interested Federal agency to employ the alien full-time in medical research or training) or by an interested State agency, the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

"(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien who qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of the contract with the health facility or health care organization named in the waiver application shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status, until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least 2 years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the 2-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of such section, who has not otherwise been accorded status under section 101(a)(27)(H), if—

"(A) at any time the alien ceases to comply with any agreement entered into under subparagraph (C) or (D) of paragraph (1); or

"(B) the alien's employment ceases to benefit the public interest at any time during the 3-year period described in paragraph (1)(C).".

SEC. 623. USE OF LEGALIZATION AND SPECIAL AGRICULTURAL WORKER INFORMATION.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) (8 U.S.C. 1255a(c)(5)) is amended to read as follows:

"(5) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, for enforcement of paragraph (6), or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986;

"(ii) make any publication whereby the information furnished by any particular applicant can be identified; or

"(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

"(B) REQUIRED DISCLOSURES.—The Attorney General shall provide the information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

"(C) AUTHORIZED DISCLOSURES.—The Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code.

"(D) CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

"(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

"(E) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.".

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) (8 U.S.C. 1160(b)(6)) is amended to read as follows:

"(6) CONFIDENTIALITY OF INFORMATION.—

"(A) IN GENERAL.—Except as provided in this paragraph, neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

"(i) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application, including a determination under subsection (a)(3)(B), or for enforcement of paragraph (7);

"(ii) make any publication whereby the information furnished by any particular individual can be identified; or

"(iii) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

"(B) REQUIRED DISCLOSURES.—The Attorney General shall provide information furnished under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, when such information is requested in writing by such entity, or to an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

"(C) CONSTRUCTION.—

"(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Service pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

"(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

"(D) CRIME.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be fined not more than $10,000.".

SEC. 624. CONTINUED VALIDITY OF LABOR CERTIFICATIONS AND CLASSIFICATION PETITIONS FOR PROFESSIONAL ATHLETES.

(a) LABOR CERTIFICATION.—Section 212(a)(5)(A) (8 U.S.C. 1182(a)(5)(A)) is amended by adding at the end the following:

"(iii) PROFESSIONAL ATHLETES.—

"(I) IN GENERAL.—A certification made under clause (i) with respect to a professional athlete shall remain valid with respect to the athlete

after the athlete changes employer, if the new employer is a team in the same sport as the team which employed the athlete when the athlete first applied for the certification.

"(II) DEFINITION.—For purposes of subclause (I), the term 'professional athlete' means an individual who is employed as an athlete by—

"(aa) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(bb) any minor league team that is affiliated with such an association.".

(b) CLASSIFICATION PETITIONS.—Section 204 (8 U.S.C. 1154) is amended by adding at the end the following:

"(i) PROFESSIONAL ATHLETES.—

"(1) IN GENERAL.—A petition under subsection (a)(4)(D) for classification of a professional athlete shall remain valid for the athlete after the athlete changes employers, if the new employer is a team in the same sport as the team which was the employer who filed the petition.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'professional athlete' means an individual who is employed as an athlete by—

"(A) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(B) any minor league team that is affiliated with such an association.".

SEC. 625. FOREIGN STUDENTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(l)(1) An alien may not be accorded status as a nonimmigrant under section 101(a)(15)(F)(i) in order to pursue a course of study—

"(A) at a public elementary school or in a publicly funded adult education program; or

"(B) at a public secondary school unless—

"(i) the aggregate period of such status at such a school does not exceed 12 months with respect to any alien, and (ii) the alien demonstrates that the alien has reimbursed the local educational agency that administers the school for the full, unsubsidized per capita cost of providing education at such school for the period of the alien's attendance.

"(2) An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) in order to pursue a course of study at a private elementary or secondary school or in a language training program that is not publicly funded shall be considered to have violated such status, and the alien's visa under section 101(a)(15)(F) shall be void, if the alien terminates or abandons such course of study at such a school and undertakes a course of study at a public elementary school, in a publicly funded adult education program, in a publicly funded adult education language training program, or at a public secondary school (unless the requirements of paragraph (1)(B) are met).".

(2) CONFORMING AMENDMENT.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended by inserting "consistent with section 214(l)" after "such a course of study".

(b) REFERENCE TO NEW GROUND OF EXCLUSION FOR STUDENT VISA ABUSERS.—For addition of ground of inadmissibility for certain nonimmigrant student abusers, see section 347.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to individuals who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act after the end of the 60-day period beginning on the date of the enactment of this Act, including aliens whose status as such a nonimmigrant is extended after the end of such period.

SEC. 626. SERVICES TO FAMILY MEMBERS OF CERTAIN OFFICERS AND AGENTS KILLED IN THE LINE OF DUTY.

(a) IN GENERAL.—Title II, as amended by section 205(a), is amended by adding at the end the following new section:

"TRANSPORTATION OF REMAINS OF IMMIGRATION OFFICERS AND BORDER PATROL AGENTS KILLED IN THE LINE OF DUTY

"SEC. 295. (a) IN GENERAL.—To the extent provided in appropriation Acts, when an immigration officer or border patrol agent is killed in the line of duty, the Attorney General may pay from appropriations available for the activity in which the officer or agent was engaged—

"(1) the actual and necessary expenses of transportation of the remains of the officer or agent to a place of burial located in any State, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

"(2) travel expenses, including per diem in lieu of subsistence, of the decedent's spouse and minor children to and from such site at rates not greater than those established for official government travel under subchapter I of chapter 57 of title 5, United States Code; and

"(3) any other memorial service authorized by the Attorney General.

"(b) PREPAYMENT.—The Attorney General may prepay any expense authorized to be paid under this section.".

(b) CLERICAL AMENDMENT.—The table of contents, as amended by section 205(b), is amended by inserting after the item relating to section 294 the following new item:

"Sec. 295. Transportation of remains of immigration officers and border patrol agents killed in the line of duty.".

Subtitle C—Provisions Relating to Visa Processing and Consular Efficiency

SEC. 631. VALIDITY OF PERIOD OF VISAS.

(a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is amended by striking "four months" and inserting "six months".

(b) AUTHORIZING APPLICATION OF RECIPROCITY RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEES AND PERMANENT RESIDENTS.—Such section is further amended by inserting before the period at the end of the third sentence the following: "; except that in the case of aliens who are nationals of a foreign country and who either are granted refugee status and firmly resettled in another foreign country or are granted permanent residence and residing in another foreign country, the Secretary of State may prescribe the period of validity of such a visa based upon the treatment granted by that other foreign country to alien refugees and permanent residents, respectively, in the United States".

SEC. 632. ELIMINATION OF CONSULATE SHOPPING FOR VISA OVERSTAYS.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

"(g)(1) In the case of an alien who has been admitted on the basis of a nonimmigrant visa and remained in the United States beyond the period of stay authorized by the Attorney General, such visa shall be void beginning after the conclusion of such period of stay.

"(2) An alien described in paragraph (1) shall be ineligible to be readmitted to the United States as a nonimmigrant, except—

"(A) on the basis of a visa (other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality (or, if there is no office in such country, in such other consular office as the Secretary of State shall specify); or

"(B) where extraordinary circumstances are found by the Secretary of State to exist.".

(b) APPLICABILITY.—

(1) VISAS.—Section 222(g)(1) of the Immigration and Nationality Act, as added by subsection (a), shall apply to a visa issued before, on, or after the date of the enactment of this Act.

(2) ALIENS SEEKING READMISSION.—Section 222(g)(2) of the Immigration and Nationality Act, as added by subsection (a), shall apply to any alien applying for readmission to the United States after the date of the enactment of this Act, except an alien applying for readmission on the basis on a visa that—

(A) was issued before such date; and

(B) is not void through the application of section 222(g)(1) of the Immigration and Nationality Act, as added by subsection (a).

SEC. 633. AUTHORITY TO DETERMINE VISA PROCESSING PROCEDURES.

Section 202(a)(1) (8 U.S.C. 1152(a)(1)) is amended—

(1) by inserting "(A)" after "NONDISCRIMINATION.—"; and

(2) by adding at the end the following:

"(B) Nothing in this paragraph shall be construed to limit the authority of the Secretary of State to determine the procedures for the processing of immigrant visa applications or the locations where such applications will be processed.".

SEC. 634. CHANGES REGARDING VISA APPLICATION PROCESS.

(a) NONIMMIGRANT APPLICATIONS.—Section 222(c) (8 U.S.C. 1202(c)) is amended—

(1) by striking "personal description" through "marks of identification);";

(2) by striking "applicant" and inserting "applicant, the determination of his eligibility for a nonimmigrant visa,"; and

(3) by adding at the end the following: "At the discretion of the Secretary of State, application forms for the various classes of nonimmigrant admissions described in section 101(a)(15) may vary according to the class of visa being requested.".

(b) DISPOSITION OF APPLICATIONS.—Section 222(e) (8 U.S.C. 1202(e)) is amended—

(1) in the first sentence, by striking "required by this section" and inserting "for an immigrant visa"; and

(2) in the fourth sentence—

(A) by striking "stamp" and inserting "stamp, or other

(B) by striking "by the consular officer".

SEC. 635. VISA WAIVER PROGRAM.

(a) ELIMINATION OF JOINT ACTION REQUIREMENT.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a), by striking "Attorney General and the Secretary of State, acting jointly" and inserting "Attorney General, in consultation with the Secretary of State";

(2) in subsection (c)(1), by striking "Attorney General and the Secretary of State acting jointly" and inserting "Attorney General, in consultation with the Secretary of State,"; and

(3) in subsection (d), by striking "Attorney General and the Secretary of State, acting jointly," and inserting "Attorney General, in consultation with the Secretary of State,".

(b) EXTENSION OF PROGRAM.—Section 217(f) (8 U.S.C. 1187(f)) is amended by striking "1996" and inserting "1997.".

(c) DURATION AND TERMINATION OF DESIGNATION OF PILOT PROGRAM COUNTRIES.—

(1) IN GENERAL.—Section 217(g) (8 U.S.C. 1187(g)) is amended to read as follows:

"(g) DURATION AND TERMINATION OF DESIGNATION.—

"(1) IN GENERAL.—

"(A) DETERMINATION AND NOTIFICATION OF DISQUALIFICATION RATE.—Upon determination by the Attorney General that a pilot program country's disqualification rate is 2 percent or more, the Attorney General shall notify the Secretary of State.

"(B) PROBATIONARY STATUS.—If the program country's disqualification rate is greater than 2 percent but less than 3.5 percent, the Attorney General shall place the program country in probationary status for a period not to exceed 2 full fiscal years following the year in which the determination under subparagraph (A) is made.

"(C) TERMINATION OF DESIGNATION.—Subject to paragraph (3), if the program country's disqualification rate is 3.5 percent or more, the Attorney General shall terminate the country's designation as a pilot program country effective at the beginning of the second fiscal year following the fiscal year in which the determination under subparagraph (A) is made.

"(2) TERMINATION OF PROBATIONARY STATUS.—

"(A) IN GENERAL.—If the Attorney General determines at the end of the probationary period described in paragraph (1)(B) that the program country placed in probationary status under such paragraph has failed to develop a machine-readable passport program as required by section (c)(2)(C), or has a disqualification rate of 2 percent or more, the Attorney General shall terminate the designation of the country as a pilot program country. If the Attorney General determines that the program country has developed a machine-readable passport program and has a disqualification rate of less than 2 percent, the Attorney General shall redesignate the country as a pilot program country.

"(B) EFFECTIVE DATE.—A termination of the designation of a country under subparagraph (A) shall take effect on the first day of the first fiscal year following the fiscal year in which the determination under such subparagraph is made. Until such date, nationals of the country shall remain eligible for a waiver under subsection (a).

"(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Paragraph (1)(C) shall not apply unless the total number of nationals of a pilot program country described in paragraph (4)(A) exceeds 100.

"(4) DEFINITION.—For purposes of this subsection, the term 'disqualification rate' means the percentage which—

"(A) the total number of nationals of the pilot program country who were—

"(i) excluded from admission or withdrew their application for admission during the most recent fiscal year for which data are available; and

"(ii) admitted as nonimmigrant visitors during such fiscal year and who violated the terms of such admission; bears to

"(B) the total number of nationals of such country who applied for admission as nonimmigrant visitors during such fiscal year.".

(2) TRANSITION.—A country designated as a pilot program country with probationary status under section 217(g) of the Immigration and Nationality Act (as in effect on the day before the date of the enactment of this Act) shall be considered to be designated as a pilot program country on and after such date, subject to placement in probationary status or termination of such designation under such section (as amended by paragraph (1)).

(3) CONFORMING AMENDMENT.—Section 217(a)(2)(B) (8 U.S.C. 1187(a)(2)(B)) is amended by striking "or is" through "subsection (g)." and inserting a period.

SEC. 636. FEE FOR DIVERSITY IMMIGRANT LOTTERY.

The Secretary of State may establish a fee to be paid by each applicant for an immigrant visa described in section 203(c) of the Immigration and Nationality Act. Such fee may be set at a level that will ensure recovery of the cost to the Department of State of allocating visas under such section, including the cost of processing all applications thereunder. All fees collected under this section shall be used for providing consular services. All fees collected under this section shall be deposited as an offsetting collection to any Department of State appropriation and shall remain available for obligations until expended. The provisions of the Act of August 18, 1856 (11 Stat. 58; 22 U.S.C. 4212–4214), concerning accounting for consular fees, shall not apply to fees collected under this section.

SEC. 637. ELIGIBILITY FOR VISAS FOR CERTAIN POLISH APPLICANTS FOR THE 1995 DIVERSITY IMMIGRANT PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of State, shall include among the aliens selected for diversity immigrant visas for fiscal year 1997 pursuant to section 203(c) of the Immigration and Nationality Act any alien who, on or before September 30, 1995—

(1) was selected as a diversity immigrant under such section for fiscal year 1995;

(2) applied for adjustment of status to that of an alien lawfully admitted for permanent residence pursuant to section 245 of such Act during fiscal year 1995, and whose application, and any associated fees, were accepted by the Attorney General, in accordance with applicable regulations;

(3) was not determined by the Attorney General to be excludable under section 212 of such Act or ineligible under section 203(c)(2) of such Act; and

(4) did not become an alien lawfully admitted for permanent residence during fiscal year 1995.

(b) PRIORITY.—The aliens selected under subsection (a) shall be considered to have been selected for diversity immigrant visas for fiscal year 1997 prior to any alien selected under any other provision of law.

(c) REDUCTION OF IMMIGRANT VISA NUMBER.—For purposes of applying the numerical limitations in sections 201 and 203(c) of the Immigration and Nationality Act, aliens selected under subsection (a) who are granted an immigrant visa shall be treated as aliens granted a visa under section 203(c) of such Act.

Subtitle D—Other Provisions

SEC. 641. PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS.

(a) IN GENERAL.—

(1) PROGRAM.—The Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall develop and conduct a program to collect from approved institutions of higher education and designated exchange visitor programs in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, of nonimmigrants under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) are nationals of the countries designated under subsection (b).

(2) DEADLINE.—The program shall commence not later than January 1, 1998.

(b) COVERED COUNTRIES.—The Attorney General, in consultation with the Secretary of State, shall designate countries for purposes of subsection (a)(1)(B). The Attorney General shall initially designate not less than 5 countries and may designate additional countries at any time while the program is being conducted.

(c) INFORMATION TO BE COLLECTED.—

(1) IN GENERAL.—The information for collection under subsection (a) with respect to an alien consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General;

(C) in the case of a student at an approved institution of higher education, the current academic status of the alien, including whether the alien is maintaining status as a full-time student or, in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of such program; and

(D) in the case of a student at an approved institution of higher education, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime.

(2) FERPA.—The Family Educational Rights and Privacy Act of 1974 shall not apply to aliens described in subsection (a) to the extent that the Attorney General determines necessary to carry out the program under subsection (a).

(3) ELECTRONIC COLLECTION.—The information described in paragraph (1) shall be collected electronically, where practicable.

(4) COMPUTER SOFTWARE.—

(A) COLLECTING INSTITUTIONS.—To the extent practicable, the Attorney General shall design the program in a manner that permits approved institutions of higher education and designated exchange visitor programs to use existing software for the collection, storage, and data processing of information described in paragraph (1).

(B) ATTORNEY GENERAL.—To the extent practicable, the Attorney General shall use or enhance existing software for the collection, storage, and data processing of information described in paragraph (1).

(d) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION AND EXCHANGE VISITOR PROGRAMS.—

(1) CONDITION.—The information described in subsection (c) shall be provided by as a condition of—

(A) in the case of an approved institution of higher education, the continued approval of the institution under subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) in the case of an approved institution of higher education or a designated exchange visitor program, the granting of authority to issue documents to an alien demonstrating the alien's eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15) of such Act.

(2) EFFECT OF FAILURE TO PROVIDE INFORMATION.—If an approved institution of higher education or a designated exchange visitor program fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.—

(1) IN GENERAL.—Beginning on April 1, 1997, an approved institution of higher education and a designated exchange visitor program shall impose on, and collect from, each alien described in paragraph (3), with respect to whom the institution or program is required by subsection (a) to collect information, a fee established by the Attorney General under paragraph (4) at the time—

(A) when the alien first registers with the institution or program after entering the United States; or

(B) in a case where a registration under subparagraph (A) does not exist, when the alien first commences activities in the United States with the institution or program.

(2) REMITTANCE.—An approved institution of higher education and a designated exchange visitor program shall remit the fees collected under paragraph (1) to the Attorney General pursuant to a schedule established by the Attorney General.

(3) ALIENS DESCRIBED.—An alien referred to in paragraph (1) is an alien who has nonimmigrant status under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (other than a nonimmigrant under section 101(a)(15)(J) of such Act who has come to the United States as a participant in a program sponsored by the Federal Government).

(4) AMOUNT AND USE OF FEES.—

(A) ESTABLISHMENT OF AMOUNT.—The Attorney General shall establish the amount of the fee to be imposed on, and collected from, an alien under paragraph (1). Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed $100. The amount of the fee shall be based on the Attorney General's estimate of the cost per alien of conducting the information collection program described in this section.

(B) USE.—Fees collected under paragraph (1) shall be deposited as offsetting receipts into the Immigration Examinations Fee Account (established under section 286(m) of the Immigration and Nationality Act) and shall remain available until expended for the Attorney General to reimburse any appropriation the amount paid out of which is for expenses in carrying out this section.

(f) JOINT REPORT.—Not later than 4 years after the commencement of the program established under subsection (a), the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM.—

(1) EXPANSION OF PROGRAM.—

(A) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (f), the Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall commence expansion of the program to cover the nationals of all countries.

(B) DEADLINE.—Such expansion shall be completed not later than 1 year after the date of the submission of the report referred to in subsection (f).

(2) REVISION OF FEE.—After the program has been expanded, as provided in paragraph (1), the Attorney General may, on a periodic basis, revise the amount of the fee imposed and collected under subsection (e) in order to take into account changes in the cost of carrying out the program.

(h) DEFINITIONS.—As used in this section:

(1) APPROVED INSTITUTION OF HIGHER EDUCATION.—The term "approved institution of higher education" means a college or university approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.

(2) DESIGNATED EXCHANGE VISITOR PROGRAM.—The term "designated exchange visitor program" means a program that has been—

(A) designated by the Director of the United States Information Agency for purposes of section 101(a)(15)(J) of the Immigration and Nationality Act; and

(B) selected by the Attorney General for purposes of the program under this section.

SEC. 642. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) ADDITIONAL AUTHORITY OF GOVERNMENT ENTITIES.—Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) OBLIGATION TO RESPOND TO INQUIRIES.—The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

SEC. 643. REGULATIONS REGARDING HABITUAL RESIDENCE.

Not later than 6 months after the date of the enactment of this Act, the Commissioner of Immigration and Naturalization shall issue regulations governing rights of "habitual residence" in the United States under the terms of the following:

(1) The Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1901 note).

(2) The Compact of Free Association between the Government of the United States and the Government of Palau (48 U.S.C. 1931 note).

SEC. 644. INFORMATION REGARDING FEMALE GENITAL MUTILATION.

(a) PROVISION OF INFORMATION REGARDING FEMALE GENITAL MUTILATION.—The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female genital mutilation which is compiled and presented in a manner which is limited to the practice itself and respectful to the cultural values of the societies in which such practice takes place.

(2) Information concerning potential legal consequences in the United States for (A) performing female genital mutilation, or (B) allowing a child under his or her care to be subjected to female genital mutilation, under criminal or child protection statutes or as a form of child abuse.

(b) LIMITATION.—In consultation with the Secretary of State, the Commissioner of Immigration and Naturalization shall identify those countries in which female genital mutilation is commonly practiced and, to the extent practicable, limit the provision of information under subsection (a) to aliens from such countries.

(c) DEFINITION.—For purposes of this section, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minora, or labia majora.

SEC. 645. CRIMINALIZATION OF FEMALE GENITAL MUTILATION.

(a) FINDINGS.—The Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the first amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I, the necessary and proper clause, section 5 of the fourteenth Amendment, as well as under the treaty clause, to the Constitution to enact such legislation.

(b) CRIME.—

(1) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that person, or any other person, that the operation is required as a matter of custom or ritual.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 646. ADJUSTMENT OF STATUS FOR CERTAIN POLISH AND HUNGARIAN PAROLEES.

(a) IN GENERAL.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

(1) applies for such adjustment;

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed;

(3) is admissible to the United States as an immigrant, except as provided in subsection (c); and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of Poland or Hungary; and

(2) was inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (2)(C) and subparagraphs (A), (B), (C), or (E) of paragraph (3)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as an alien lawfully admitted for permanent residence as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

SEC. 647. SUPPORT OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Attorney General shall make available funds under this section, in each of fiscal years 1997 through 2001, to the Commissioner of Immigration and Naturalization or to other public or private nonprofit entities to support demonstration projects under this section at 10 sites throughout the United States. Each such project shall be designed to provide for the administration of the oath of allegiance under section 337(a) of the Immigration and Nationality Act on a business day around Independence Day to approximately 500 people whose application for naturalization has been approved. Each project shall provide for appropriate outreach and ceremonial and celebratory activities.

(b) SELECTION OF SITES.—The Attorney General shall, in the Attorney General's discretion, select diverse locations for sites on the basis of the number of naturalization applicants living in proximity to each site and the degree of local community participation and support in the project to be held at the site. Not more than 2 sites may be located in the same State. The Attorney General shall consider changing the sites selected from year to year.

(c) AMOUNTS AVAILABLE; USE OF FUNDS.—

(1) AMOUNT.—The amount made available under this section with respect to any single site for a year shall not exceed $5,000.

(2) USE.—Funds made available under this section may be used only to cover expenses incurred in carrying out oath administration ceremonies at the demonstration sites under subsection (a), including expenses for—

(A) cost of personnel of the Immigration and Naturalization Service (including travel and overtime expenses);

(B) rental of space; and

(C) costs of printing appropriate brochures and other information about the ceremonies.

(3) AVAILABILITY OF FUNDS.—Funds that are otherwise available to the Immigration and Naturalization Service to carry out naturalization activities shall be available, to the extent provided in appropriation Acts, to carry out this section.

(d) APPLICATION.—In the case of an entity other than the Immigration and Naturalization Service seeking to conduct a demonstration project under this section, no amounts may be made available to the entity under this section unless an appropriate application has been made to, and approved by, the Attorney General, in a form and manner specified by the Attorney General.

SEC. 648. SENSE OF CONGRESS REGARDING AMERICAN-MADE PRODUCTS; REQUIREMENTS REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this Act, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

SEC. 649. VESSEL MOVEMENT CONTROLS DURING IMMIGRATION EMERGENCY.

Section 1 of the Act of June 15, 1917 (50 U.S.C. 191) is amended in the first sentence by inserting "or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response," after "United States," the first place such term appears.

SEC. 650. REVIEW OF PRACTICES OF TESTING ENTITIES.

(a) IN GENERAL.—The Attorney General shall investigate, and submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding, the practices of entities authorized to administer standardized citizenship tests pursuant to section 312.3(a) of title 8, Code of Federal Regulations. The report shall include any findings of fraudulent practices by such entities.

(b) PRELIMINARY AND FINAL REPORTS.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a preliminary report on the investigation conducted under subsection (a). The Attorney General shall submit to such Committees a final report on such investigation not later than 275 days after the submission of the preliminary report.

SEC. 651. DESIGNATION OF A UNITED STATES CUSTOMS ADMINISTRATIVE BUILDING.

(a) DESIGNATION.—The United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry located at 797 South Zaragosa Road in El Paso, Texas, is designated as the "Timothy C. McCaghren Customs Administrative Building".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in subsection (a) is deemed to be a reference to the "Timothy C. McCaghren Customs Administrative Building".

SEC. 652. MAIL-ORDER BRIDE BUSINESS.

(a) FINDINGS.—The Congress finds as follows:

(1) There is a substantial "mail-order bride" business in the United States. With approximately 200 companies in the United States, an estimated 2,000 to 3,500 men in the United States find wives through mail-order bride catalogs each year. However, there are no official statistics available on the number of mail-order brides entering the United States each year.

(2) The companies engaged in the mail-order bride business earn substantial profits.

(3) Although many of these mail-order marriages work out, in many other cases, anecdotal evidence suggests that mail-order brides find themselves in abusive relationships. There is also evidence to suggest that a substantial number of mail-order marriages are fraudulent under United States law.

(4) Many mail-order brides come to the United States unaware or ignorant of United States immigration law. Mail-order brides who are battered often think that if they flee an abusive marriage, they will be deported. Often the citizen spouse threatens to have them deported if they report the abuse.

(5) The Immigration and Naturalization Service estimates that the rate of marriage fraud between foreign nationals and United States citizens or aliens lawfully admitted for permanent residence is 8 percent. It is unclear what percentage of these marriage fraud cases originate as mail-order marriages.

(b) INFORMATION DISSEMINATION.—

(1) REQUIREMENT.—Each international matchmaking organization doing business in the United States shall disseminate to recruits, upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit's native language, including information regarding conditional permanent residence status and the battered spouse waiver under such status, permanent resident status, marriage fraud penalties, the unregulated nature of the business engaged in by such organizations, and the study required under subsection (c).

(2) CIVIL PENALTY.—

(A) VIOLATION.—Any international matchmaking organization that the Attorney General determines has violated subsection (b) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $20,000 for each such violation.

(B) PROCEDURES FOR IMPOSITION OF PENALTY.—Any penalty under subparagraph (A) may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(c) STUDY.—The Attorney General, in consultation with the Commissioner of Immigration and Naturalization and the Director of the Violence Against Women Initiative of the Department of Justice, shall conduct a study of mail-order marriages to determine, among other things—

(1) the number of such marriages;

(2) the extent of marriage fraud in such marriages, including an estimate of the extent of marriage fraud arising from the services provided by international matchmaking organizations;

(3) the extent to which mail-order spouses utilize section 244(a)(3) of the Immigration and Nationality Act (providing for suspension of deportation in certain cases involving abuse), or section 204(a)(1)(A)(iii) of such Act (providing for certain aliens who have been abused to file a classification petition on their own behalf);

(4) the extent of domestic abuse in mail-order marriages; and

(5) the need for continued or expanded regulation and education to implement the objectives of the Violence Against Women Act of 1994 and the Immigration Marriage Fraud Amendments of 1986 with respect to mail-order marriages.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate setting forth the results of the study conducted under subsection (c).

(e) DEFINITIONS.—As used in this section:

(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—

(A) IN GENERAL.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity,

whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or aliens lawfully admitted for permanent residence, dating, matrimonial, or social referral services to nonresident noncitizens, by—

(i) an exchange of names, telephone numbers, addresses, or statistics;

(ii) selection of photographs; or

(iii) a social environment provided by the organization in a country other than the United States.

(B) EXCEPTION.—Such term does not include a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States.

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or aliens lawfully admitted for permanent residence.

SEC. 653. REVIEW AND REPORT ON H-2A NONIMMIGRANT WORKERS PROGRAM.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the H2-A nonimmigrant worker program should be reviewed and may need improvement in order to meet the need of producers of labor-intensive agricultural commodities and livestock in the United States for an adequate workforce.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H-2A nonimmigrant worker program to ensure that the program provides a sufficient supply of agricultural labor in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the H-2A nonimmigrant worker program to determine—

(1) whether the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) whether the program ensures that there is timely approval of applications for temporary foreign workers under the program in the event of shortages of United States workers after the date of the enactment of this Act;

(3) whether the program ensures that implementation of the program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers;

(4) if, and to what extent, the program is contributing to the problem of illegal immigration; and

(5) that the program adequately meets the needs of agricultural employers for all types of temporary foreign agricultural workers, including higher-skilled workers in occupations which require a level of specific vocational preparation of 4 or higher (as described in the 4th edition of the Dictionary of Occupational Title, published by the Department of Labor).

(c) REPORT.—Not later than December 31, 1996, or 3 months after the date of the enactment of this Act, whichever occurs earlier, the Comptroller General shall submit a report to the appropriate committees of the Congress setting forth the conclusions of the Comptroller General from the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "H-2A nonimmigrant worker program" means the program for the admission of nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act.

SEC. 654. REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS.

(a) STUDY AND REVIEW.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of harassment by Canadian customs agents allegedly undertaken for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connection between any incidents of harassment and the discriminatory imposition of the New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, and with any other actions taken by the Canadian provincial governments to deter cross-border commercial activities.

(2) CONSULTATION.—In conducting the study under paragraph (1), the Commissioner of the United States Customs Service shall consult with representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons who the Commissioner considers to be important to the completion of the study.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the study and review conducted under subsection (a). The report shall include recommendations for steps that the United States Government can take to help end any harassment by Canadian customs agents that is found to have occurred.

SEC. 655. SENSE OF CONGRESS ON DISCRIMINATORY APPLICATION OF NEW BRUNSWICK PROVINCIAL SALES TAX.

(a) FINDINGS.—The Congress finds as follows:

(1) In July 1993, Canadian customs officers began collecting an 11 percent New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, an action that has caused severe economic harm to United States businesses located in proximity to the border with New Brunswick.

(2) This impediment to cross-border trade compounds the damage already done from the Canadian Government's imposition of a 7 percent tax on all goods bought by Canadians in the United States.

(3) Collection of the New Brunswick provincial sales tax on goods purchased outside of New Brunswick is effected only along the United States-Canadian border, not along New Brunswick's borders with other Canadian provinces; the tax is thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadians shopping in the United States.

(4) In February 1994, the United States Trade Representative publicly stated an intention to seek redress from the discriminatory application of the New Brunswick provincial sales tax under the dispute resolution process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures.

(5) Initially, the United States Trade Representative argued that filing a New Brunswick provincial sales tax claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the claim has still not been put forward by the United States Trade Representative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the provincial sales tax levied by the Canadian province of New Brunswick on Canadian citizens of that province who purchase goods in the United States—

(A) raises questions about a possible violation of the North American Free Trade Agreement in the discriminatory application of the tax to cross-border trade with the United States; and

(B) damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in chapter 20 of the North American Free Trade Agreement for the violation.

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth

certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) FEDERAL AGENCY DEFINED.—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

SEC. 658. BORDER PATROL MUSEUM.

(a) AUTHORITY.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas, such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) TECHNICAL ASSISTANCE.—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 659. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service should include a statement that it is the responsibility of the Service to detect, apprehend, and remove those aliens unlawfully present in the United States, particularly those aliens involved in drug trafficking or other criminal activity.

SEC. 660. AUTHORITY FOR NATIONAL GUARD TO ASSIST IN TRANSPORTATION OF CERTAIN ALIENS.

Section 112(d)(1) of title 32, United States Code, is amended by adding at the end the following new sentence: "The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.".

Subtitle E—Technical Corrections

SEC. 671. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATING TO PUBLIC LAW 103–322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994).—

(1) Section 60024(1)(F) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) (in this subsection referred to as "VCCLEA") is amended by inserting "United States Code," after "title 18,".

(2) Section 130003(b)(3) of VCCLEA is amended by striking "Naturalization" and inserting "Nationality".

(3)(A) Section 214 (8 U.S.C. 1184) is amended by redesignating the subsection (j), added by section 130003(b)(2) of VCCLEA (108 Stat. 2025), and the subsection (k), as amended by section 622(c), as subsections (k) and (l), respectively.

(B) Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended by striking "214(j)" and inserting "214(k)".

(4)(A) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (i) added by section 130003(c)(1) of VCCLEA as subsection (j).

(B) Section 241(a)(2)(A)(i)(I) (8 U.S.C. 1251(a)(2)(A)(i)(I)), as amended by section 130003(d) of VCCLEA and before redesignation by section 305(a)(2), is amended by striking "245(i)" and inserting "245(j)".

(5) Section 245(j)(3), as added by section 130003(c)(1) of VCCLEA and as redesignated by paragraph (4)(A), is amended by striking "paragraphs (1) or (2)" and inserting "paragraph (1) or (2)".

(6) Section 130007(a) of VCCLEA is amended by striking "242A(d)" and inserting "242A(a)(3)".

(7) The amendments made by this subsection shall be effective as if included in the enactment of the VCCLEA.

(b) AMENDMENTS RELATING TO IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

(1) Section 101(d) of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) (in this subsection referred to as "INTCA") is amended—

(A) by striking "APPLICATION" and all that follows through "This" and inserting "APPLICABILITY OF TRANSMISSION REQUIREMENTS.—This";

(B) by striking "any residency or other retention requirements for" and inserting "the application of any provision of law relating to residence or physical presence in the United States for purposes of transmitting United States"; and

(C) by striking "as in effect" and all that follows through the end and inserting "to any person whose claim is based on the amendment made by subsection (a) or through whom such a claim is derived.".

(2) Section 102 of INTCA is amended by adding at the end the following:

"(e) TRANSITION.—In applying the amendment made by subsection (a) to children born before November 14, 1986, any reference in the matter inserted by such amendment to 'five years, at least two of which' is deemed a reference to '10 years, at least 5 of which'.".

(3) Section 351(a) (8 U.S.C. 1483(a)), as amended by section 105(a)(2)(A) of INTCA, is amended by striking the comma after "nationality".

(4) Section 207(2) of INTCA is amended by inserting a comma after "specified".

(5) Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended in subparagraph (K)(ii), by striking the comma after "1588".

(6) Section 273(b) (8 U.S.C. 1323(b)), as amended by section 209(a) of INTCA, is amended by striking "remain" and inserting "remains".

(7) Section 209(a)(1) of INTCA is amended by striking "$3000" and inserting "$3,000".

(8) Section 209(b) of INTCA is amended by striking "subsection" and inserting "section".

(9) Section 219(cc) of INTCA is amended by striking " 'year 1993 the first place it appears' " and inserting " 'year 1993' the first place it appears".

(10) Section 219(ee) of INTCA is amended by adding at the end the following:

"(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.".

(11) Paragraphs (4) and (6) of section 286(r) (8 U.S.C. 1356(r)) are amended by inserting "the" before "Fund" each place it appears.

(12) Section 221 of INTCA is amended—

(A) by striking each semicolon and inserting a comma,

(B) by striking "disasters." and inserting "disasters,"; and

(C) by striking "The official" and inserting "the official".

(13) Section 242A (8 U.S.C. 1252a), as added by section 224(a) of INTCA and before redesignation as section 238 by section 308(b)(5), is amended by redesignating subsection (d) as subsection (c).

(14) Except as otherwise provided in this subsection, the amendments made by this subsection shall take effect as if included in the enactment of INTCA.

(c) AMENDMENTS RELATING TO PUBLIC LAW 104–132 (ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996).—

(1) Section 219 (8 U.S.C. 1189), as added by section 302(a) of Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) (in this subsection referred to as "AEDPA"), is amended by striking the heading and all that follows through "(a)" and inserting the following:

"DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS

"SEC. 219. (a)".

(2) Section 302(b) of AEDPA is amended by striking ", relating to terrorism,".

(3) Section 106(a) (8 U.S.C. 1105a(a)), as amended by sections 401(e) and 440(a) of AEDPA, is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) in paragraph (10), by striking "Any" and inserting "any".

(4) Section 440(a) of the AEDPA is amended by striking "Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:" and inserting "Section 106(a) of the Immigration and Nationality Act (8 U.S.C. 1105a(a)) is amended by adding at the end the following:".

(5) Section 440(g)(1)(A) of AEDPA is amended—

(A) by striking "of this title"; and

(B) by striking the period after "241(a)(2)(A)(i)".

(6) Section 440(g) of AEDPA is amended by striking paragraph (2).

(7) The amendments made by this subsection shall take effect as if included in the enactment of subtitle A of title IV of AEPDA.

(d) STRIKING REFERENCES TO SECTION 210A.—

(1)(A) Section 201(b)(1)(C) (8 U.S.C. 1151(b)(1)(C)) is amended by striking ", 210A,".

(B) Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended by striking ", 210A(a),".

(C) Section 241(a)(1) (8 U.S.C. 1251(a)(1)), before redesignation by section 305(a)(2), is amended by striking subparagraph (F).

(2) Sections 204(c)(1)(D)(i) and 204(j)(4) of Immigration Reform and Control Act of 1986 are each amended by striking ", 210A,".

(e) MISCELLANEOUS CHANGES IN THE IMMIGRATION AND NATIONALITY ACT.—

(1) Before being amended by section 308(a)(2), the item in the table of contents relating to section 242A is amended to read as follows:

"Sec. 242A. Expedited deportation of aliens convicted of committing aggravated felonies.".

(2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is amended by striking ", 321, and 322" and inserting "and 321".

(3) Section 212(d)(11) (8 U.S.C. 1182(d)(11)) is amended by inserting a comma after "(4) thereof)".

(4) Pursuant to section 6(b) of Public Law 103–272 (108 Stat. 1378)—

(A) section 214(f)(1) (8 U.S.C. 1184(f)(1)) is amended by striking "section 101(3) of the Federal Aviation Act of 1958" and inserting "section 40102(a)(2) of title 49, United States Code"; and

(B) section 258(b)(2) (8 U.S.C. 1288(b)(2)) is amended by striking "section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805)" and inserting "section 5103(b), 5104, 5106, 5107, or 5110 of title 49, United States Code".

(5) Section 286(h)(1)(A) (8 U.S.C. 1356(h)(1)(A)) is amended by inserting a period after "expended".

(6) Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

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

(B) by moving clauses (v) and (vi) 2 ems to the left;

(C) by striking "; and" in clauses (v) and (vi) and inserting "and for";

(D) by striking the colons in clauses (v) and (vi); and

(E) by striking the period at the end of clause (v) and inserting "; and".

(7) Section 412(b) (8 U.S.C. 1522(b)) is amended by striking the comma after "is authorized" in paragraph (3) and after "The Secretary" in paragraph (4).

(f) MISCELLANEOUS CHANGE IN THE IMMIGRATION ACT OF 1990.—Section 161(c)(3) of the Immigration Act of 1990 is amended by striking "an an" and inserting "of an".

(g) MISCELLANEOUS CHANGES IN OTHER ACTS.—

(1) Section 506(a) of the Intelligence Authorization Act, Fiscal Year 1990 (Public Law 101–193) is amended by striking "this section" and inserting "such section".

(2) Section 140 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, as amended by section 505(2) of Public Law 103–317, is amended—

(A) by moving the indentation of subsections (f) and (g) 2 ems to the left; and

(B) in subsection (g), by striking "(g)" and all that follows through "shall" and inserting "(g) Subsections (d) and (e) shall".

And the Senate agree to the same.

HENRY HYDE,
LAMAR SMITH,
ELTON GALLEGLY,
BILL MCCOLLUM,
BOB GOODLATTE,
ED BRYANT,
SONNY BONO,
BILL GOODLING,
RANDY "DUKE" CUNNINGHAM,
HOWARD P. "BUCK" MCKEON,
E. CLAY SHAW, Jr.,
Managers on the Part of the House.

ORRIN HATCH,
AL SIMPSON,
CHUCK GRASSLEY,
JON KYL,
ARLEN SPECTER,
STROM THURMOND,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2202) to

amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—IMPROVEMENTS TO BORDER CONTROL, FACILITATION OF LEGAL ENTRY, AND INTERIOR ENFORCEMENT

SUBTITLE A—IMPROVED ENFORCEMENT AT THE BORDER

Section 101—House recedes to sections 101 (a) and (b) of the Senate amendment, with modifications, and the Senate recedes to House section 101(c) with modifications. This section increases the number of Border Patrol agents by 1000 per year from FY 1997 through 2001. It further provides that the Attorney General, in each fiscal year from 1997 through 2001, may increase by 300 the number of support personnel for the Border Patrol. The additional border patrol agents are to be deployed in sectors along the border in proportion to the level of illegal crossings of the border in such sectors. Border Patrol resources should be used primarily at the border to deter illegal crossings and to apprehend at the earliest possible juncture those who have made such crossings. This section also requires the forward deployment of Border Patrol agents to provide a visible deterrent to illegal immigration, and includes the requirement in Senate amendment section 109 regarding the preservation of immigration enforcement functions in interior areas. The managers intend that for purposes of this section, border sectors shall include coastal areas of the United States. The managers also intend, as a further deterrent to repeat illegal crossings, that available resources be made used to detain and prosecute aliens who repeatedly violate section 275(a) of the Immigration and Nationality Act.

Section 102—Senate amendment section 108 recedes to House section 102, with modifications, including the substantive provisions of sections 109 and 327 of the Senate amendment. This section requires the Attorney General to install additional fences and roads to deter illegal immigration. In the San Diego sector, it calls for extension of the new fencing to a point 14 miles east of the Pacific Ocean, and the construction of second and third fences, with roads between the fences, to provide an additional deterrent. This section includes a proviso (from Senate amendment section 108) that the design of such fencing incorporate features necessary to ensure the safety of Border Patrol agents. This section also includes provisions based on Senate amendment section 327 to enhance the Attorney General's ability to acquire property along the border for purposes of improving border controls. This section also provides for a limited waiver of the Endangered Species Act of 1973 and the National Environmental Policy Act of 1969 in order to facilitate a uniform construction of necessary fences and roads.

Section 103—Senate amendment section 179 recedes to House section 103. This section authorizes the acquisition by the Attorney General of improved equipment and technology to deter illegal immigration on the border.

Section 104—Senate recedes to House sections 104(a) and 104(b). This section requires improvement in the Border Crossing Identification Card, a document issued in lieu of a visa to aliens from Canada and Mexico for short-term visits within a designated distance from the border. Such cards are frequently counterfeited and used by impostors. The new cards issued under this section will be machine-readable and contain security features to prevent use by impostors.

Section 105—Senate recedes to House section 105. This section provides for civil money penalties for aliens apprehended while entering or attempting to enter the United States other than at a lawful port of entry.

Section 106—House section 107 recedes to Senate amendment section 107. This section requires the Attorney General to review within 60 days of enactment all hiring standards of the INS, and within 180 days of enactment all training standards of the INS. The Attorney General shall submit a certification in each of fiscal years 1997 through 2000 that all personnel hired in that year were hired in accordance with appropriate standards. The Attorney General also shall submit a report based on the review of training standards describing the status of efforts to improve such standards.

Section 107—Senate recedes to House section 108, with modification. This section requires the Comptroller General, with the cooperation of the Attorney General and in consultation with the Secretary of State and the Secretary of Defense, to track, monitor, and evaluate efforts to deter illegal entry into the United States. The Comptroller General shall report his findings to the Committees on the Judiciary of the Senate and the House of Representatives within 1 year from the date of enactment and every year thereafter through FY 2000. The report shall include recommendations to increase border security at the land border and at ports of entry.

Section 108—House recedes to Senate amendment section 304. This section amends chapter 35 of title 18 to add a new section 758, making high-speed flight from an INS checkpoint a felony punishable by up to 5 years in prison. This section also amends INA section 241(a)(2)(A) to make an alien convicted of this offense deportable.

Section 109—House recedes to Senate amendment section 173. This section requires the Attorney General, together with the Secretary of State, the Secretary of the Treasury, and representatives of the air transport industry, to develop a plan for automated data collection at ports of entry. The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate within 9 months of the date of enactment regarding the outcome of this joint initiative, including recommendations for legislation.

Section 110—House recedes to Senate amendment section 174, with modifications to include most of the substantive requirements from House section 113. This section will require the Attorney General within 2 years of enactment to establish an automated entry and exit control system that will (1) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, and (2) enable the identification of lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General. The Commissioner of the INS must submit an annual report to the Committees on the Judiciary of the Senate and the House of Representatives on the operation of the system, including information on the number of departure records collected, the number of records successfully matched to records of arrival, and the number of nonimmigrants and other visitors for whom no matching departure record was obtained. All of this information shall include accounting by country of nationality of the arriving and departing aliens. Information on visa overstays identified through the entry and exit control system shall be integrated into appropriate data bases of the INS and the Department of State, including those used at ports of entry and consular offices.

Section 111—House recedes to Senate amendment section 322, with modifications. This section requires the Attorney General to submit a report by September 30, 1996, to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the redeployment of border patrol agents.

Section 112—House recedes to Senate amendment section 120C. This section authorizes the appropriation of funds to ensure that the "IDENT" program operated by the Immigration and Naturalization Service (INS) is expanded to apply to all apprehended illegal and criminal aliens.

Section 113—Senate recedes to House section 106, with modification.

SUBTITLE B—FACILITATION OF LEGAL ENTRY

Section 121—House section 701 recedes to Senate amendment section 103, with modification. This section will require the Attorney General and Secretary of the Treasury to increase in FY 1997 and 1998 the number of full-time land border inspectors of the INS and the Customs Service to levels adequate to assure full staffing during peak crossing hours of all border crossing lanes currently in use, under construction, or authorized to be constructed.

Section 122—Senate amendment section 213 recedes to House section 702, with modifications. This section will extend the authority under INA section 286(q) for commuter lane pilot programs through FY 2000, and raise to 6 the maximum number of such pilots. It also includes the authorization in Senate amendment section 213(b)(2) for the Attorney General to conduct pilot projects for automated entry, using card reading or similar technology, at land border ports of entry after hours of normal operation have ended.

Section 123—Senate recedes to House section 703, with modifications. This section amends the INA to create a new section 235A, providing for the establishment within 2 years of enactment of preinspection stations at 5 of the 10 foreign airports serving as the last points of departure for the greatest number of inadmissible passengers arriving by air in the United States. Not later than 4 years after enactment, the Attorney General

shall establish preinspection stations in at least 5 additional foreign airports, on the basis of most effectively reducing the number of inadmissible aliens who arrive in the United States. This section also requires the Attorney General to compile data arising from the operation of preinspection stations, and to establish a carrier consultant program to deter boarding by aliens inadmissible to the United States.

Section 124—Senate recedes to House section 704. This section amends INA section 286(h)(2)(A)(iv) to provide that funds may be expended from the Immigration User Fee Account for the training of commercial airline personnel in the detection of fraudulent documents, and that not less than 5 percent of the funds expended out of the Account in a given fiscal year shall be for this purpose. This section also amends INA section 212(f) to provide that if a commercial airline has failed to comply with regulations of the Attorney General relating to the detection of fraudulent documents, including the training of personnel, the Attorney General may suspend the entry of aliens transported to the U.S. by the airline.

Section 125—House recedes to Senate amendment section 330. This section amends INA section 103(a) to provide that the Attorney General may authorize officers of a foreign country to be stationed at preclearance stations in the United States to ensure that persons traveling from or through the United States to that foreign country comply with that country's immigration and related laws. Such officers shall be authorized to perform duties, and shall enjoy such privileges and immunities necessary for the performance of such duties, as are granted to United States immigration officers in that foreign country under reciprocal agreement.

SUBTITLE C—INTERIOR ENFORCEMENT

Section 131—House sections 121 and 404 recede to Senate amendment section 102, with modifications. This section will authorize an increase in the number of INS investigators and support personnel assigned to investigate violations of INA sections 274A (employer sanctions) and 274C (civil document fraud) by 300 in each of FY 1997, 1998, and 1999. Not less than half of these newly-hired investigators shall be assigned to investigate potential violations of section 274A.

Section 132—House recedes to Senate amendment section 104. This section authorizes the appropriation of funds necessary to increase the number of investigators and support personnel to investigate visa overstayers by 300 in FY 1997.

Section 133—House sections 122 and 365 recede to Senate amendment section 184, with modifications. This section amends INA section 287 to permit the Attorney General to enter into written agreements with State and local authorities to designate qualified officers or employees of the State or locality to perform immigration enforcement functions pertaining to the investigation, apprehension, or detention of aliens unlawfully in the United States, including the transportation of aliens across State lines to detention centers. Such functions shall be carried out at State or local expense and the designated officers and employees shall operate under the direction of the Attorney General.

Section 134—House recedes to Senate amendment section 316, with modification. This amendment directs that each State be allocated at least 10 active-duty INS agents.

TITLE II—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING AND DOCUMENT FRAUD

SUBTITLE A—ENHANCED ENFORCEMENT AND PENALTIES AGAINST ALIEN SMUGGLING

Section 201—House section 201 recedes to Senate amendment section 121. This section amends 18 U.S.C. 2516(1) to give INS the authority under such section to use wiretaps in investigations of alien smuggling and document fraud offenses.

Section 202—Senate amendment section 122 recedes to House section 202, with modifications. This section amends 18 U.S.C. 1961(1) to include as racketeering offenses acts indictable as document fraud crimes under title 18 (including the naturalization and citizenship document offenses specified in the Senate bill) or as alien smuggling offenses under section 274, 277, and 278 of the Immigration and Nationality Act. The offenses under the INA may be considered as RICO predicates only if committed for the purpose of financial gain.

Section 203(a)—Senate recedes to House section 203(a)(1). This provision amends INA section 274(a)(1) to increase criminal penalties in cases where an offense relating to alien smuggling, harboring, inducement, or transportation is done for the purpose of financial gain.

Section 203(b)—House section 203(a)(2) recedes to Senate amendment sections 123(a)(1) and (2). This provision amends INA section 274 to specify criminal penalties for those who engage in a conspiracy to violate alien smuggling, inducement, harboring, and transportation prohibitions, and for those who aid and abet such crimes. Senate amendment sections 123(a)(3)(B) and 123(b) recede to House section 203(b), as modified. This provision will increase penalties under section 274(b) to up to 10 years imprisonment, and up to 15 years for a third or subsequent offense, for certain alien smuggling violations. House recedes to Senate amendment section 123(a)(4), with modifications. This provision creates a new offense for an employer to hire an alien who the employer knows is not authorized to be employed in the United States, and who the employer also knows was brought into the United States in violation of INA section 274(a). In order to be liable under this provision, the employer must have actual knowledge both of the alien's unauthorized status and of the fact that the alien was brought into the United States illegally.

Section 203(c)—Senate recedes to that portion of House section 203(b) that creates a new offense under INA section 274(a) for smuggling an alien with reason to believe that the alien will commit a crime in the United States.

Section 203(d)—Senate amendment section 123(a)(3) recedes to House section 203(c). This provision will change the standard for calculating penalties for alien smuggling crimes. Henceforth, an offense will be counted for each alien smuggled, not, as under current law, for each transaction regardless of the number of aliens involved.

Section 203(e)–(f)—House recedes to Senate amendment sections 123(c)–(e), with modifications. These provisions require the United States Sentencing Commission to promulgate or amend guidelines for offenders convicted of smuggling, harboring, inducement, or transportation of illegal aliens; provide emergency authority to the Sentencing Commission to complete this task; and make section 203 of this Act (and the amendments made thereby) applicable to offenses occurring on or after the date of enactment.

Section 204—Senate amendment section 120 recedes to House section 204, with modifications. This section provides that the number of Assistant United States Attorneys shall be increased in fiscal year 1997 by at least 25, and that such attorneys shall prosecute persons involved in smuggling or harboring of illegal aliens, or other crimes involving illegal aliens, which would include immigration document fraud offenses relating to false identification documents, visas, passports, and citizenship and naturalization documents.

Section 205—Senate amendment section 169 recedes to House section 205. This section provides authority for the INS to use appropriated funds for the establishment and operation of undercover proprietary corporations or business entities.

SUBTITLE B—ENHANCED ENFORCEMENT AND PENALTIES AGAINST DOCUMENT FRAUD

Section 211—Senate amendment section 127(a)(1) recedes to House section 211(a). This provision increases the maximum term of imprisonment for fraud and misuse of government-issued identification documents from 5 years to 15 years. The sentence is increased to 20 years if the offense is committed to facilitate a drug-trafficking crime, and to 25 years if committed to facilitate an act of international terrorism. House recedes to Senate amendment section 127(a)(2)–(4), as modified. These provisions will increase penalties for document fraud crimes under sections 1541–1544, 1546(a), and 1425–1427 of title 18 to 10 years for a first or second offense, 15 years for a third or subsequent offense, with the same enhancements for crimes committed to facilitate drug trafficking (20 years) or international terrorism (25 years). House section 211(b) recedes to Senate section 127(b)–(d). These provisions require the United States Sentencing Commission to promulgate or amend guidelines for offenders convicted of document fraud offenses, provide emergency authority to the Sentencing Commission to complete this task, and make section 211 (and the amendments made thereby) applicable to offenses occurring on or after the date of enactment.

Section 212—House sections 212 and 213 recede to Senate amendment section 130, as modified. This section amends INA section 274C, regarding civil penalties for document fraud, to expand liability to those who engage in document fraud for the purpose of obtaining a benefit under the INA. New liability is established for those who prepare, file, or assist another person in preparing or filing an application for benefits with knowledge or in reckless disregard of the fact that such application or document was falsely made. New liability also is established for aliens who destroy travel documents en route to the United States after having presented such documents to board a common carrier to the United States. A waiver from civil document fraud penalties may be granted to an alien who is granted asylum or withholding of deportation. The amendments made by this section shall apply to offenses occurring on or after the date of enactment.

Section 213—House section 214 recedes to Senate amendment section 129. This section amends INA section 274C by adding a new subsection (e), providing that a person who fails to disclose or conceals his role in preparing, for a fee or other remuneration, a false application for benefits under the INA is subject to imprisonment of not more than 5 years, and is prohibited from preparing, whether or not for a fee or other remuneration, any other such application. A person convicted under this section who later prepares or assists in preparing an application

for immigration benefits, regardless of whether for a fee or other remuneration, is subject to imprisonment of not more than 15 years, and is prohibited from preparing any other such application.

Section 214—Senate amendment section 128 recedes to House section 215. This section amends section 1546(a) of title 18 to provide that the penalty for knowingly presenting a document which contains a false statement also extends to a document which fails to contain any reasonable basis in law or fact.

Section 215—Senate recedes to House section 216. This section amends section 1015 of title 18 by adding new subparagraphs (e) and (f). New subparagraph (e) makes it unlawful for any person to make a false claim to United States citizenship or nationality for the purpose of obtaining, for himself or any other person, any Federal benefit or service or employment in the United States. New subsection (f) makes it unlawful for any person to make a false claim to United States citizenship in order to vote or register to vote in any Federal, State, or local election, including an initiative, recall, or referendum.

Section 216—House recedes to Senate amendment section 217(a). This section amends title 18 to add a new section 611, making it unlawful for any alien to vote in any election for Federal office, and subjects violators to fines and a term of imprisonment of not more than 1 year.

Section 217—This section merges House section 221 and Senate amendment section 126. This section amends 18 U.S.C. 982(a) by adding a new paragraph (6), providing that a person who is convicted of a violation of or of a conspiracy to violate sections 1425, 1426, 1427, 1541, 1542, 1543, 1544, or 1546 of title 18, or section 1028 of title 18, or section 274(a) of the INA, if committed in connection with passport or visa issuance or use, shall forfeit any conveyance used in the commission of the offense, as well as any property, real or personal, which was used or intended to be used in facilitating the violation, and any property constituting, derived from, or traceable to the proceeds of the violation. The criminal forfeiture shall be governed by the provisions of section 413 (other than subsections (a) and (d)) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

Section 218—House recedes to Senate amendment section 131. This section increases penalties for violations of sections 1581, 1583, 1584, and 1588 of title 18 (regarding involuntary servitude, peonage, and slave trade offenses) from a maximum of 5 years to 10 years imprisonment. The section also requires the United States Sentencing Commission to ascertain if there exists an unwarranted disparity between sentences for such crimes and the sentences for kidnaping and alien smuggling offenses, and further requires the Commission to amend the Sentencing Guidelines to reduce or eliminate any such unwarranted disparity and to ensure that the Sentencing Guidelines reflect the heinous nature of such offenses as well as aggravating factors such as large numbers of victims and prolonged periods of peonage or involuntary servitude. The section also provides emergency authority to the Sentencing Commission to effect such changes.

Section 219—House recedes to Senate amendment section 124. This section permits the introduction of videotaped deposition testimony, in trials involving offenses under section 274 of the INA, of witnesses who have been deported from the United States or who are otherwise unavailable to testify, provided that there was an opportunity for cross-examination at such deposition. This provision will permit the introduction, in trials for alien smuggling and related offenses, of critical testimony from aliens who have been smuggled into the United States, eliminating the need to detain such aliens in the United States.

Section 220—House recedes to Senate amendment section 120A(a)(2). This provision amends section 274C (pertaining to civil penalties for document fraud) to provide that immigration officers designated by the Attorney General may use subpoena authority to compel the attendance of witnesses and the production of documents in connection with investigating a complaint of civil document fraud.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

SUBTITLE A—REVISION OF PROCEDURES FOR REMOVAL OF ALIENS

Sec. 301(a)—Senate recedes to House section 301(a), with modifications. Subsection (a) of this section amends INA section 101(a)(13) by replacing the definition of "entry" with a definition for "admission" and "admitted": the lawful entry of an alien into the United States after inspection and authorization by an immigration officer. An alien who is paroled under INA section 212(d)(5) shall not be considered to have been admitted. With certain specified exceptions (including in the case of an individual who has been absent from the United States for a period of greater than 180 days or has committed an offense identified in section 212(a)(2)), a returning lawful permanent resident alien (LPR) shall not be considered to be seeking admission.

Sec. 301(b)—Senate amendment sections 143(b) and 317 recede to House section 301(c), with modifications. This subsection redesignates paragraph (9) of INA section 212(a) as paragraph (10), and inserts a new paragraph (9). Under this subsection, an alien ordered removed under revised INA section 235(b)(1) (see explanation of section 302 of this Act below), or at the end of proceedings under new section 240 (see explanation of section 304 of this Act below) that were initiated upon the alien's arrival in the United States, is inadmissible for a period of 5 years (or for 20 years in the case of a second or subsequent removal and permanently in the case of an alien convicted of an aggravated felony). An alien otherwise ordered removed from the United States, or who has departed the United States while an order of removal is outstanding, shall be barred from admission for 10 years (or for 20 years in the case of a second or subsequent removal, and permanently in the case of an alien convicted of an aggravated felony). These bars to readmission can be waived (as in current law) if the Attorney General has given prior consent to the alien's reapplying for admission.

This subsection also provides that an alien unlawfully present in the United States for a period of more than 180 days but less than 1 year who voluntarily departed the United States is barred from admission for 3 years. An alien unlawfully present for 1 year or more who voluntarily departs is barred from admission for 10 years. An alien is unlawfully present if the alien has been present in the United States without admission or parole, or remains in the United States beyond an authorized period of stay. No period of time in which the alien was present in the United States under the age of 18, as a bona fide applicant for asylum under section 208, or as a beneficiary of family unity protection, shall count towards the aggregate 1-year period. The calculation of time is suspended if the alien has filed a bona fide application for change or extension of status, and such application is approved. This bar shall not apply to an alien described in new INA section 212(a)(6)(A)(ii) (battered spouse or child). The bar also may be waived, in the sole and unreviewable discretion of the Attorney General, for an immigrant who is the spouse or son or daughter of a United States citizen or lawful permanent resident, and the refusal of admission to the alien would cause extreme hardship to that citizen or lawfully resident spouse or parent.

This subsection also provides that an alien who has been present unlawfully in the United States for more than 1 year or has been ordered removed from the United States, and who subsequently enters or attempts to enter the United States without being lawfully admitted, is permanently barred from admission. Such an alien may be admitted not earlier than 10 years after the alien's last departure from the United States, but only if the Attorney General gives prior consent to the alien's reapplying for admission.

Section 301(c)—Senate recedes to House section 301(b), with modifications. This subsection states that an alien who is present in the U.S. without being admitted or paroled, or who has arrived in the U.S. at any time or place other than as designated by the Attorney General, is inadmissible. This ground of inadmissibility shall not apply if: (I) the alien qualifies for immigrant status as the spouse or child of a United States citizen or lawful permanent resident; (II) the alien or the alien's child has been battered or subject to extreme cruelty; and (III) there was a substantial connection between the cruelty or battery and the alien's unlawful entry into the United States. As a matter of transition, the requirements under (II) and (III) shall not apply if the alien establishes that he or she first entered the United States prior to the effective date of Title III of this legislation, as set forth in section 309(a). This subsection also provides that an alien who without reasonable cause fails to attend or remain in attendance at any proceeding regarding the alien's removal from the United States is barred from admission for 5 years.

Section 301(d)—Senate recedes to House section 301(g), which makes a number of conforming references regarding the change in nomenclature in INA section 212(a) from "excludable" to "inadmissible." Subparagraph (B) of INA section 241(a)(1) (entry without inspection) will be amended to state that an alien present in the United States in violation of law is deportable. The current category of persons who are deportable because they have made an entry without inspection will, under the amendments made by section 301(c) of this bill, instead be considered inadmissible under revised paragraph (6)(A) of subsection 212(a).

Section 302—Senate recedes to House section 302, with modifications. This section will amend INA section 235, regarding the inspection of aliens arriving in the U.S. New section 235(a) provides that an alien present in the United States who has not been admitted to the U.S., or who arrives in the United States, (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), shall be deemed an applicant for admission.

An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. A stowaway shall not be eligible to apply for asylum in the United States unless the stowaway establishes a credible fear of persecution pursuant to the expedited review process in section 235(b)(1).

Aliens seeking admission, readmission, or transit through the United States shall be inspected by an immigration officer, who shall have the same authority to take statements and receive evidence as under current INA section 235. An alien applying for admission may, at the discretion of the Attorney General, be permitted to withdraw the application for admission and depart immediately from the United States.

New section 235(b) establishes new procedures for the inspection and in some cases removal of aliens arriving in the United States.

Expedited Removal of Arriving Aliens: New paragraph (b)(1) provides that if an examining immigration officer determines that an arriving alien is inadmissible under section 212(a)(6)(C) (fraud or misrepresentation) or 212(a)(7) (lack of valid documents), the officer shall order the alien removed without further hearing or review, unless the alien states a fear of persecution or an intention to apply for asylum. This provision shall not apply to an alien arriving by air who is a national of a Western Hemisphere nation with which the United States does not have diplomatic relations. The provisions also may be applied, in the sole and unreviewable discretion of the Attorney General, to an alien who has not been paroled or admitted into the United States and who cannot affirmatively show to an immigration officer that he or she has been continuously present in the United States for a period of 2 years immediately prior to the date of the officer's determination. The purpose of these provisions is to expedite the removal from the United States of aliens who indisputably have no authorization to be admitted to the United States, while providing an opportunity for such an alien who claims asylum to have the merits of his or her claim promptly assessed by officers with full professional training in adjudicating asylum claims.

An alien who states a fear of persecution or an intention to apply for asylum shall be referred for interview by an asylum officer, who is an immigration officer who has had professional training in asylum law, country conditions, and interview techniques comparable to that provided to full-time adjudicators of asylum applications. The officer shall be, for purposes of determinations made under this section, under the supervision of an immigration officer with similar training and substantial experience in adjudicating asylum applications. If the officer finds that the alien has a credible fear of persecution, the alien shall be detained for further consideration of the application for asylum under normal non-expedited removal proceedings. If the alien does not meet this standard and, if the alien requests administrative review, the officer's decision is upheld by an immigration judge, the alien will be ordered removed. To the maximum extent practicable, review by the immigration judge shall be completed within 24 hours, but in no case shall such review take longer than 7 days. Throughout this process of administrative review, the alien shall be detained by the INS. An alien may consult with a person of his or her choosing before the interview, at no expense to the Government and without unreasonably delaying the interview. A "credible fear of persecution" means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum.

There is no other administrative review of a removal order entered under this paragraph, but an alien claiming under penalty of perjury to be lawfully admitted for permanent residence, or to have been admitted as a refugee or granted asylum, shall be entitled to administrative review of such an order as the Attorney General shall provide by regulation. An alien ordered removed under this paragraph may not make a collateral attack against the order in a prosecution under section 275(a) (illegal entry) or 276 (illegal reentry).

The availability of judicial review is described below in the explanation of section 306 of this Act.

New paragraph (b)(2) provides that an alien determined to be inadmissible by an immigration officer (other than an alien subject to removal under paragraph (b)(1), or an alien crewman or stowaway) shall be referred for a hearing before an immigration judge under new section 240.

Subsection (c) restates the provisions of current INA section 235(c) regarding the removal of aliens arriving in the United States who are inadmissible on national security grounds. This subsection is not intended to apply in the case of aliens who are inadmissible under new section 212(a)(6)(A) because they are already present in the United States without having been admitted or paroled. Such aliens could, however, be subject to the special removal procedures provided in Subtitle B of this Title.

New subsection (d) restates provisions currently in INA section 235(a) authorizing immigration officers to search conveyances, administer oaths, and receive evidence, and to issue subpoenas enforceable in a United States district court.

Section 303—Senate recedes to House section 303, with modifications. This section amends INA section 236, as described in the next paragraphs below. (The provisions in current section 236 regarding hearings on the exclusion of aliens are reflected in new section 240, as amended by section 304 of this report.)

New section 236(a) restates the current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States. (The current authority in section 242(a) for a court in habeas corpus proceedings to review the conditions of detention or release pending the determination of the alien's inadmissibility or deportability is not retained.) The minimum bond for an alien released pending removal proceedings is raised from $500 to $1500. New section 236(b) restates the current provisions in section 242(a)(1) that the Attorney General may at any time revoke an alien's bond or parole.

New section 236(c) provides that the Attorney General must detain an alien who is inadmissible under section 212(a)(2) or deportable under new section 237(a)(2). This requirement does not apply to an alien deportable under section 237(a)(2)(A)(i) on the basis of an offense for which the alien has not been sentenced to at least 1 year in prison. This detention mandate applies whenever such an alien is released from imprisonment, regardless of the circumstances of the release. This subsection also provides that such an alien may be released from the Attorney General's custody only if the Attorney General decides in accordance with 18 U.S.C. 3521 that release is necessary to provide protection to a witness, potential witness, a person cooperating with an investigation into major criminal activity, or a family member or close associate of such a witness or cooperator, and such release will not pose a danger to the safety of other persons or of property, and the alien is likely to appear for any scheduled proceeding.

New section 236(d) restates the current provisions in section 242(a)(3) regarding the identification of aliens arrested for aggravated felonies and amends those provisions to require that information on aliens convicted of aggravated felonies and deported be provided to the Department of State for inclusion in its automated visa lookout system.

New section 236(e) states that no discretionary judgment of the Attorney General made under the authority of section 236 shall be subject to judicial review, and that no court shall set aside a decision of the Attorney General regarding detention or release of an alien, or the granting or denial of bond or parole.

Section 304—Senate recedes to House section 304, with modifications. This section redesignates current INA section 239 (designation of ports of entry for aliens arriving by civil aircraft) as section 234, redesignates INA section 240 (records of admission) as section 240C, and inserts new INA sections 239, 240, 240A, and 240B.

New section 239 restates the provisions of current subsections (a) and (b) of section 242B regarding the provision of written notice to aliens placed in removal proceedings. These provisions are conformed to the establishment of a single removal hearing to replace the two current proceedings under current section 236 (exclusion) and 242 (deportation). The requirement that the written notice be provided in Spanish as well as English is not retained. The INS will determine when a language other than English should be used and when the services of a translator are necessary. The mandatory period between notice and date of hearing is reduced to 10 days. Service is sufficient if there is proof of mailing to the last address provided by the alien.

New section 240 restates provisions in current sections 236 (exclusion proceedings) and 242 and 242B (deportation proceedings). Section 240(a) provides that there shall be a single proceeding for deciding whether an alien is inadmissible under section 212(a) or deportable under section 237 (formerly section 241(a)). This subsection shall not affect proceedings under new section 235(c) (aliens inadmissible on national security grounds), new section 238 (currently section 242A) (aliens convicted of aggravated felonies), or new section 235(b)(1) (arriving aliens, or aliens present in the United States without having been admitted or paroled, who are inadmissible for fraud or lack of documents).

Section 240(b) provides that the removal proceeding under this section shall be conducted by an immigration judge in largely the same manner as currently provided in sections 242 and 242B. Under paragraph (b)(2), the proceeding may take place in person, or through video or telephone conference. (Hearings on the merits could be conducted by telephone conference only with the consent of the alien). In addition, with the consent of the parties, the proceeding may take place in the alien's absence. Under paragraph

(b)(4), an alien shall have a reasonable opportunity to examine the evidence presented against the alien, and to cross-examine Government witnesses, but not to examine national security information provided in opposition to the alien's admission to the United States, or in opposition to an alien's application for discretionary relief. Under paragraph (b)(5), an alien who fails to appear for a hearing may be ordered removed if the Service establishes by clear, unequivocal, and convincing evidence that notice under section 239 was provided and that the alien is inadmissible or deportable. There is no requirement to provide written notice if the alien has failed to provide the address required under section 239(a)(1)(F). Under paragraph (b)(5)(C), an in absentia order can only be rescinded through a motion to reopen filed within 180 days if the alien demonstrates that the failure to appear was due to exceptional circumstances (as defined in section 240(e)), or a motion to reopen filed at any other time if the alien demonstrates that the alien either did not receive notice of the hearing or was in Federal or State custody and could not appear. An alien who fails to appear shall, in the absence of exceptional circumstances, be ineligible for 10 years for any relief under new sections 240A (voluntary departure) and 240B (cancellation of removal), and sections 245, 248, and 249.

Section 240(c) provides that the immigration judge shall make a decision on removability based only upon the evidence at the hearing. An alien applicant for admission shall have the burden to establish that he or she is beyond doubt entitled to be admitted. An alien who is not an applicant for admission shall have the burden to establish by clear and convincing evidence that he or she is lawfully present in the U.S. pursuant to a prior lawful admission. If the alien meets this burden, the Service has the burden to establish by clear and convincing evidence that the alien is deportable. This subsection also clarifies the types of evidence of criminal convictions that are admissible in immigration proceedings.

An alien is limited to one motion to reconsider the decision of the immigration judge. Such motion shall be filed within 30 days of the final administrative order of removal and shall specify the errors of law or fact in the order. An alien is limited to one motion to reopen proceedings. Such motion shall be filed within 90 days of the final administrative order of removal and shall state the new facts to be proven at a hearing if the motion is granted. The deadline for a motion to reopen may be extended in the case of an application for asylum or withholding of removal that is based on new evidence of changed country conditions, evidence that was not available at the time of the initial hearing. In the case of an in absentia order of removal under section 240(b)(5), the deadline for a motion to reopen shall be as set forth in section 240(b)(5)(C).

Section 240(d) provides that the Attorney General shall provide by regulation for the entry by an immigration judge of an order of removal stipulated to by the alien and the INS. Such an order shall be a conclusive determination of the alien's removability from the U.S.

Section 240(e) defines as "exceptional circumstances" the serious illness of the alien or the serious illness or death of the spouse, parent, or child of the alien, and other exceptional circumstances that are not less compelling. The subsection defines "removable" to mean in the case of an alien who has not been admitted, that the alien is inadmissible under section 212, and in the case of an alien who has been admitted, that the alien is deportable under redesignated section 237.

New section 240A establishes revised rules for the type of relief that is currently available to excludable and deportable aliens under section 212(c) and 244(a)—(d). Senate amendment section 150 recedes to these House provisions, with modifications.

Section 240A(a) provides that the Attorney General may cancel removal in the case of an alien lawfully admitted for permanent residence for not less than 5 years, if the alien has resided in the United States continuously for 7 years since being lawfully admitted in any status and has not been convicted of an aggravated felony. This provision is intended to replace and modify the form of relief now granted under section 212(c) of the INA.

Section 240A(b)(1) provides that the Attorney General may cancel removal in the case of an alien who (1) has been physically present in the United States for a continuous period of at least 10 years immediately preceding the date of applying for such relief, (2) has been a person of good moral character, (3) has at no time been convicted of an offense that would render the alien inadmissible under section 212(a)(2)(A) or deportable under redesignated sections 237(a)(2) or 237(a)(3), and (4) establishes that removal would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child who is a citizen of the United States or an alien lawfully admitted for permanent residence.

Section 240A(b)(1) replaces the relief now available under INA section 244(a) ("suspension of deportation"), but limits the categories of illegal aliens eligible for such relief and the circumstances under which it may be granted. The managers have deliberately changed the required showing of hardship from "extreme hardship" to "exceptional and extremely unusual hardship" to emphasize that the alien must provide evidence of harm to his spouse, parent, or child substantially beyond that which ordinarily would be expected to result from the alien's deportation. The "extreme hardship" standard has been weakened by recent administrative decisions holding that forced removal of an alien who has become "acclimated" to the United States would constitute a hardship sufficient to support a grant of suspension of deportation. See Matter of O-J-O-, Int. Dec. 3280 (BIA 1996). Such a ruling would be inconsistent with the standard set forth in new section 240A(b)(1). Similarly, a showing that an alien's United States citizen child would fare less well in the alien's country of nationality than in the United States does not establish "exceptional" or "extremely unusual" hardship and thus would not support a grant of relief under this provision. Our immigration law and policy clearly provide that an alien parent may not derive immigration benefits through his or her child who is a United States citizen. The availability in truly exceptional cases of relief under section 240A(b)(1) must not undermine this or other fundamental immigration enforcement policies.

Section 240A(b)(2) restates the provisions in current section 244(a)(3), enacted in section 40703(a)(3) of the Violent Crime Control and Law Enforcement Act of 1994. It provides that the Attorney General may cancel removal if the inadmissible or deportable alien has been subjected to extreme cruelty in the United States by a spouse or parent who is a United States citizen or lawful permanent resident; has been physically present in the United States for a continuous period of at least 3 years; has been a person of good moral character during such period; is not deportable or inadmissible on grounds related to criminal activity, national security, or marriage fraud; and establishes that removal would result in extreme hardship.

Section 240A(b)(3) states that the Attorney General may adjust to the status of an alien lawfully admitted for permanent residence an alien who meets the requirements for cancellation of removal under section 240A(b)(1) or (2). The number of such adjustments shall not exceed 4,000 in any fiscal year.

Section 240A(c) provides that the following categories of aliens shall not be eligible for cancellation of removal under subsections (a) and (b)(1): an alien who entered as a crewman after June 30, 1964; an alien who was admitted as a nonimmigrant exchange alien under 101(a)(15)(J) in order to receive graduate medical education; an alien who otherwise was admitted as a nonimmigrant exchange alien under section 101(a)(15)(J), is subject to the two-year foreign residence requirement of section 212(e), and has not fulfilled that requirement or received a waiver; an alien who is inadmissible under section 212(a)(3) or deportable under redesignated section 237(a)(4) (national security and related grounds); an alien who is a persecutor as described in new section 241(b)(3)(B)(i); or an alien who has previously been granted relief under this section, or under INA sections 212(c) or 244(a) before the effective date of this Act.

Section 240A(d) provides that the period of continuous residence or physical presence ends when an alien is served a notice to appear under section 239(a) (for the commencement of removal proceedings under section 240), or when the alien is convicted of an offense that renders the alien deportable from the United States, whichever is earliest. A period of continuous physical presence under section 240A(b) is broken if the alien has departed from the United States for any period of 90 days, or for any periods in the aggregate exceeding 180 days. The continuous physical presence requirement does not apply to an alien who has served 24 months in active-duty status in the United States armed forces, was in the United States at the time of enlistment or induction, and was honorably discharged.

Section 240A(e) limits the granting of cancellation of removal and suspension of deportation under current section 244 to not more than an aggregate total of 4,000 aliens per fiscal year. This limitation shall apply regardless of when the alien applied for such relief.

New section 240B establishes new conditions for the granting of voluntary departure, currently governed by section 242(b) and 244(e) of the INA. Senate amendment section 150 recedes to these House provisions, with modifications.

Section 240B(a) provides that the Attorney General may permit an alien voluntarily to depart the United States at the alien's expense in lieu of being subject to removal proceedings under section 240 or prior to the completion of such proceedings, if the alien is not deportable because of conviction for an aggravated felony or on national security and related grounds. Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days and an alien may be required to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the U.S. within the time specified. No alien arriving in the

United States for whom removal proceedings under section 240 are instituted at the time of arrival is eligible for voluntary departure under this section. Such an alien may withdraw his or her application for admission to the United States in accordance with section 235(a)(4).

Section 240B(b) provides that the Attorney General may permit an alien voluntarily to depart the United States at the conclusion of proceedings under section 240 if the alien has been physically present (before the notice to appear) for at least one year in the United States, the alien has been a person of good moral character for the 5 years preceding the application, the alien is not deportable because of conviction for an aggravated felony or on national security and related grounds, and the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so. The period for voluntary departure cannot exceed 60 days and a voluntary departure bond is required.

Section 240B(c) provides that an alien is not eligible for voluntary departure if the alien was previously granted voluntary departure after having been found inadmissible under section 212(a)(6)(A) (present without admission or parole).

Section 240B(d) provides that if an alien is permitted to depart voluntarily and fails to do so, the alien shall be subject to a civil penalty of not less than $1,000 nor more than $5,000 and shall not be eligible for any further relief under this section or sections 240A, 245, 248, or 249 for a period of 10 years. The order granting voluntary departure shall inform the alien of these penalties.

Section 240B(e) provides that the Attorney General may by regulation limit eligibility for voluntary departure for any class or classes of aliens.

Section 304(c) of this Act amends INA section 242A (to be redesignated as section 238) to further streamline procedures for administrative deportation of certain criminal aliens.

Section 305—Senate recedes to House section 305, with modifications. Subsection (a) of this section strikes section 237, redesignates section 241 as section 237, and inserts a new section 241.

New section 241 restates and revises provisions in current sections 237, 242, and 243 regarding the detention and removal of aliens.

Section 241(a) provides that the Attorney General shall remove an alien within 90 days of the alien being ordered removed. This removal period shall begin when the alien's order is administratively final, when the alien is released from non-immigration related detention or confinement, or, if the alien has appealed his order to a court and removal has been stayed, the date of the court's final order. The removal period is extended beyond 90 days if the alien refuses to apply for travel documents or takes other steps (other than appeals) to prevent removal.

The alien shall be detained during the removal period. If the alien is not removed within 90 days, the alien shall be subject to supervision under conditions similar to those currently in section 242(d). An alien who has been ordered removed may be detained beyond the 90-day period if the alien is inadmissible under section 212, is removable under redesignated sections 237(a)(1)(c), 237(a)(2), or 237(a)(4), or, in the Attorney General's determination, is unlikely to comply with the order of removal or is a risk to the community.

The Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released, but parole, supervised release, probation, or the possibility of arrest are not grounds to defer removal. However, under section 241(a)(4)(B), an alien may be removed prior to the completion of sentence if the alien has been convicted of a nonviolent offense (except for certain aggravated felonies) and removal of the alien is appropriate and in the best interests of the United States or of the State in whose custody the alien is held. There is no right of action against the United States or any State, or any officials thereof, to compel the release or removal of any alien under this provision.

If an alien reenters the United States illegally after having been removed or departed voluntarily under an order of removal, the prior order of removal is reinstated and the alien shall be removed under the prior order, which shall not be subject to review. The alien is not eligible to apply for any relief under the INA.

An alien who is subject to an order of removal may not be granted authorization to work in the United States unless there is no country willing to accept the alien, or the removal is otherwise impracticable or contrary to the public interest.

Section 241(b) establishes the countries to which an alien may be removed. Subsection (b)(1) restates the provisions in current section 237(a); subsection (b)(2) restates the provisions in current sections 243(a) and (b). Subsection (b)(3) restates, with some modifications, the provisions in current section 243(h) regarding withholding of deportation to a country where the alien's life or freedom would be threatened. Subsection (b)(3)(B) specifies that an alien is barred from this form of relief if, having been convicted of a particularly serious crime, the alien is a danger to the community. An aggravated felony or felonies for which the alien has been sentenced to an aggregate of 5 years imprisonment is deemed to be such a crime, but the Attorney General retains the authority to determine other circumstances in which an alien has been convicted of a particularly serious crime, regardless of the length of sentence.

Section 241(c) provides that an alien arriving in the United States who is ordered removed shall be removed immediately by the vessel or aircraft that brought the alien, unless it is impracticable to do so or the alien is a stowaway who has been ordered removed by operation of section 235(b)(1) but has a pending application for asylum. This subsection also restates and revises the provisions in section 237(d) regarding stay of removal, and the provisions in section 237(a) regarding cost of detention and maintenance pending removal. These provisions make it clear that actual physical detention of an alien who has been permitted to land in the United States shall be the sole responsibility of the Attorney General and shall take place in INS facilities or contract facilities, even in cases where the liability for cost of detention is assigned to a private entity such as a carrier. It is expected that the rate of reimbursement charged to the carrier or other entity made responsible for the cost of detention of an alien shall be at the same per diem rate charged to the government for the cost of detention.

In the case of an alien stowaway, the carrier shall be liable for the cost of detention incurred by the Attorney General. If the stowaway does not claim asylum, the only task is to arrange for the stowaway's departure from the United States. This could occur directly on the vessel of arrival, particularly in the case of aircraft. Due to commercial requirements, safety concerns, and other factors, it is often not practicable for the stowaway to be removed on the vessel of arrival, particularly in the case of commercial maritime vessels. For this reason, section 241(d)(2)(B) provides that an alien stowaway may be allowed to land in the United States for detention by the Attorney General or departure or removal of the stowaway. In such a case, the carrier shall be responsible, under section 241(c)(3)(A)(ii)(II), for the cost of detention by the Attorney General for the time reasonably necessary to arrange for repatriation or removal of the alien, including obtaining necessary travel documents. The carrier's liability shall not extend beyond the date on which it is ascertained that such travel documents cannot be obtained. It is expected that the carrier and the INS will work cooperatively in order to obtain such travel documents in an expeditious manner. In some circumstances, foreign governments do not cooperate in issuing such documents. Since circumstances in such cases vary, this legislation does not designate a time period beyond which the financial responsibility for continued detention shifts from the carrier to the INS. It is expected that the INS, through regulations or internal policy guidance, will set a reasonable time line and other criteria that will be applied uniformly in all INS districts. Such guidelines should include an obligation on the part of the carrier to continue efforts to obtain travel documents and make other arrangements for the departure of the stowaway from the U.S.

In the case of a stowaway who has claimed asylum and is being detained to pursue an application for asylum, the carrier shall be liable, under section 241(c)(3)(A)(ii)(III), for a period not to exceed 15 business days, excluding Saturdays, Sundays, and holidays. The 15-day period shall begin when the alien is determined, under section 235(b)(1), to have a credible fear of persecution and thus be eligible to apply for asylum, but not later than 72 hours after the actual arrival of the stowaway in the U.S. The 72-hour period is intended to provide adequate time for the Attorney General to determine if the stowaway has a credible fear of persecution and thus will be detained by the INS to pursue an asylum application. (As stated in new INA section 235(b)(1), this Act intends that the credible fear screening process, including administrative review, will ordinarily be completed within 24 hours or shortly thereafter. Additional time may be required in the case of a stowaway because of the unusual and sometimes dangerous circumstances in which a stowaway arrives in the United States.) Under no circumstances shall the carrier be required to reimburse the INS for a period of detention greater than 15 business days, plus the portion of the initial 72-hour period required to determine if the stowaway is eligible to apply for asylum. The obligation of the carrier to pay for detention costs does not include an obligation for the carrier to pay for the cost of translators, legal counsel, or other assistance in preparing and presenting the stowaway's claim for asylum. It is expected that the INS will adopt, through regulations consistent with the provisions of this legislation, clear policy guidance regarding the conduct of interviews to determine if a stowaway has a credible fear of persecution.

Section 241(d) restates the provisions in current section 237(b) requiring the owner of the vessel or aircraft bringing an alien to the United States to comply with orders of an immigration officer regarding the detention

or removal of the alien. This subsection also restates the provisions in section 243(e) that any carrier (not limited to the carrier who has brought an alien) comply with an order of the Attorney General to remove to a specific destination an alien who has been ordered removed.

Section 241(d) also revises and restates the requirements in section 273(d) regarding permission for a stowaway to land in the U.S. A carrier who has brought a stowaway shall, pending completion of the inspection of the stowaway, detain the stowaway on board the vessel or at another place designated by the INS. The carrier may not permit the stowaway to land except temporarily for medical treatment, for detention of the stowaway by the Attorney General, or for departure and removal of the stowaway. However, a carrier shall not be required to detain a stowaway who has been permitted to remain in the U.S. to pursue an application for asylum, who shall be detained by the Attorney General subject to the reimbursement requirements set forth in section 241(c). Furthermore, the Attorney General shall grant a timely request by a carrier to remove the stowaway on a vessel other than that on which the alien has arrived in the U.S., provided that the carrier pays the cost of removal and obtains all necessary travel documents. In this way, the stowaway can be rapidly repatriated to the country of origin, instead of being forced to remain on the vessel while it makes other ports of call.

Section 241(e) restates the provisions in current sections 237(c) and 243(c) regarding the payment of expenses for removal of aliens who have been ordered removed.

Section 241(f) restates the provisions in section 243(f) regarding the employment of persons to provide personal care to aliens requiring such care during the removal process.

Section 241(g) amends and restates the authority in current section 242(c) for construction and operation of detention facilities. The amendment states that before the construction of new facilities, the Commissioner of the INS shall consider the availability of existing facilities for purchase or lease.

Section 241(h) provides that nothing in section 241 shall be construed to create any substantive or procedural right or benefit that is legally enforceable against the United States, its agencies or officers, or any other person. This provision is intended, among other things, to prohibit the litigation of claims by aliens who have been ordered removed from the U.S. that they be removed at a particular time or to a particular place.

Section 305(b) amends INA section 276(b) to establish a penalty of 10 years imprisonment for aliens who reenter the United States without authorization after having been removed prior to the completion of their term of imprisonment under new section 241(a)(4)(B).

Section 306—Senate amendment sections 141(b) and 142 recedes to House section 306, with modifications. This section amends INA section 242 to revise and restate the provisions in current section 106, which is repealed.

Section 242(a) provides that a final order of removal, other than an order or removal under section 235(b)(1), is governed by chapter 158 of title 28. This is consistent with current section 106(a). This subsection also provides that, subject to the conditions stated in new section 242(e), no court shall have jurisdiction to review any individual determination or cause or claim arising from the implementation or operation of an order of removal under INA section 235(b)(1), or to review, except as provided in subsection (e), a decision by the Attorney General to invoke section 235(b)(1), the application of such section to individual aliens (including the determination under section 235(b)(1)(B) regarding credible fear of persecution), or, except as provided in subsection (e), procedures and policies to implement section 235(b)(1). Individual determinations under section 235(b)(1) may only be reviewed under new subsection 242(e)(1)–(2).

This subsection also bars judicial review (1) of any judgment whether to grant relief under section 212(h) or (i), 240A, 240B, or 245, (2) of any decision or action of the Attorney General which is specified to be in the discretion of the Attorney General (except a discretionary judgment whether to grant asylum as described in section 242(b)), or (3) of any decision in the case of an alien who, by virtue of having committed a criminal offense, is inadmissible under section 212(a)(2) or deportable under redesignated section 237(a)(2) (with the exception of section 237(a)(2)(A)(i).

Section 242(b) provides that a petition for review must be filed within 30 days after the final order of removal in the Federal court of appeals for the circuit in which the final order of removal under section 240 was entered. As provided in Senate amendment section 142, the filing of a petition does not stay the removal of the alien unless the court orders otherwise. As further provided in the Senate amendment, the alien shall serve and file a brief not later than 40 days after the final administrative record becomes available, and may file a reply brief not later than 14 days after service of the brief of the Attorney General. These deadlines may be extended for good cause. The petition shall be decided solely upon the administrative record and the administrative findings of fact are conclusive unless any reasonable adjudicator would be compelled to conclude to the contrary. A discretionary judgment of the Attorney General whether to grant asylum under section 208 is conclusive unless manifestly contrary to law and an abuse of discretion. Judicial review of all questions of law and fact, including constitutional and statutory claims, arising out of an action to remove an alien from the United States, is available only as part of the judicial review of a final order of removal under this section.

Section 242(b) also revises and restates the provisions in current section 106 regarding form, service, decisions about eligibility for admission, treatment of a petitioner's claim that he or she is a national of the United States, consolidation of motions to reopen and reconsider with orders of removal, challenges to the validity of orders of removal in criminal proceedings, and detention and removal of alien petitioners.

Section 242(c) restates the provisions in the second sentence of subsection (c) of current section 106 that a petition for review must state whether a court has upheld the validity of an order of removal, and if so, identifying the court and date and type of proceeding.

Section 242(d) restates the provisions in the first and third sentences of subsection (c) of current section 106 requiring that a petitioner have exhausted administrative remedies and precluding a court from reviewing an order of removal that has been reviewed by another court absent a showing that the prior review was inadequate to address the issues presented in the petition, or that the petition presents new grounds that could not have been presented in the prior proceeding.

Section 242(e) provides rules for judicial review of orders of removal under section 235(b)(1). No court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief against the operation of section 235(b)(1) (other than that specifically authorized in this subsection), or to certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized in this section. Except as provided in section 242(e)(3) (see next paragraph), judicial review is available in habeas corpus, limited to whether the petitioner is an alien, whether the petitioner was ordered removed under revised INA section 235(b)(1), and whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence, or has been admitted as a refugee or granted asylum. If the court determines that the petitioner was not ordered removed under section 235(b)(1) or is an alien lawfully admitted for permanent residence or a refugee or asylee, the court may order no relief other than to require that the alien be provided a hearing under section 240. The habeas corpus proceeding shall not address whether the alien actually is admissible or entitled to any relief from removal.

Section 242(e)(3) provides for limited judicial review of the validity of procedures under section 235(b)(1). This limited provision for judicial review does not extend to determinations of credible fear and removability in the case of individual aliens, which are not reviewable. Section 242(e)(3) provides that judicial review is available only in an action instituted in the United States District Court for the District of Columbia, and is limited to whether section 235(b)(1), or any regulations issued pursuant to that section, is constitutional, or whether the regulations, or a written policy directive, written policy guidance, or written procedures issued by the Attorney General are consistent with the INA or other law. Any action seeking such review must be filed within 60 days of the implementation of the regulations, directive, guidance, or procedures.

Section 242(f) provides that no court other than the Supreme Court shall have jurisdiction or authority to enjoin or restrain the operation of the provisions in chapter 4 of Title II of the INA, as amended by this legislation, other than with respect to the application of the provisions to an individual alien against whom removal proceedings have been initiated. Section 242(g) provides that no court shall have jurisdiction to hear any cause or claim on behalf of any alien arising from the decision of the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien.

Section 306(b) of this Act repeals INA section 106. Section 306(c) establishes that the amendments in subsections (a) and (b) shall apply to all final orders of exclusion, deportation, or removal, and all motions to reopen or reconsider, filed on or after the date of enactment of this Act. The jurisdictional bar in new section 242(g) shall apply without limitation to all past, pending, or future exclusion, deportation, or removal proceedings under the INA. Section 306(d) makes a technical amendment to sections 440(a), (c), (d), (g), and (h) of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104-132, 110 Stat. 1214 (April. 24, 1996) (Public Law 104-132) ("AEDPA"), to clarify the circumstances in which aliens with multiple criminal convictions are barred from relief or subject to special procedures to effect their removal from the United States.

Section 307—Senate recedes to House section 307. Section 307(a) amends INA section 243(a) to restate the provisions in current INA section 242(e) regarding penalties for failure to depart within 90 days of the order of removal. New section 243(b) restates the provisions in the third (and final) sentence of current INA section 242(d) regarding penalties for failure to comply with the terms of release under supervision pursuant to section 241(a)(3) (currently the first two sentences of section 242(d)). New section 243(c) restates the provisions in the second and third sentences of current section 237(d) and the final clause of current section 243(e) regarding penalties for failure to comply with an order to remove an alien from the U.S., including civil money penalties and limitations on the clearance of vessels. New section 243(d) revises and restates the provisions in current section 243(g) regarding sanctions against a country that refuses to accept an alien ordered removed who is a citizen, subject, national, or resident of that country. Under the amendment, the Secretary of State shall order that the issuance of both immigrant and nonimmigrant visas to citizens, nationals, subjects, or nationals of that country be suspended until the country has accepted the alien.

Section 308—Senate recedes to House section 308. This section makes a series of redesignations and conforming amendments in addition to those made in other sections. (The following list includes amendments made in other sections).

Current section 232 is redesignated as section 232(a).

Current section 234 is redesignated as section 232(b).

Current section 238 is redesignated as section 233.

Current section 240 is redesignated as section 240C.

Current section 242A is redesignated as section 238, with conforming amendments.

Current section 242B is stricken.

Current section 244 is stricken.

Current section 244A is redesignated as section 244.

The provisions in current section 237(e) regarding the removal of an arriving alien who is helpless from sickness or mental or physical disorder are restated as a new section 232(c). Section 212(a)(10)(B), the redesignated ground of inadmissibility for an alien who is ordered to accompany such a helpless alien during removal, also is amended to conform to the amendments in new section 232(c).

Section 273(a) is amended by adding a new paragraph (2) to restate the provisions in current section 237(b)(5) prohibiting a carrier from taking any consideration contingent on whether an alien is admitted to or ordered removed from the U.S. Section 273(d) is repealed.

Section 309—Senate recedes to House section 309. This section establishes general effective dates and transition provisions for the amendments made by this subtitle. Subsection (a) provides that, except as otherwise provided, the changes made in this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of enactment. Subsection (b) provides that the Attorney General shall promulgate regulations to carry out this subtitle at least 1 month before the effective date in subsection (a). Subsection (c) provides for the transition to new procedures in the case of an alien already in exclusion or deportation proceedings on the effective date. In general, the amendments made by this subtitle shall not apply and the proceedings (including judicial review) shall continue to be conducted without regard to such amendments. The Attorney General may elect to apply the new procedures in a case in which an evidentiary hearing under current section 236 (exclusion) or sections 242 and 242B (deportation) has not been commenced as of the effective date. The Attorney General shall provide notice of such election to the alien, but the prior notice of hearing and order to show cause served upon the alien shall be effective to retain jurisdiction over the alien.

The Attorney General also may elect, in a case in which there has been no final administrative decision, to terminate proceedings without prejudice to the Attorney General's ability to initiate new proceedings under the amendments made by this subtitle. Determinations in the terminated proceeding shall not be binding in the new proceeding.

This subsection also provides that in the case where a final order of exclusion or deportation is entered more than 30 days after the date of enactment and before the Title III-A effective date (180 days after enactment), transitional rules similar to those established in section 305 of this Act (revised INA section 241) shall apply to petitions for judicial review filed prior to the Title III-A effective date. Under these transitional rules, all judicial review, both of exclusion and deportation decisions, shall be by petition for review to the court of appeals for the judicial circuit in which the final administrative order was entered. The petition for review also must be filed not later than 30 days after the final order of exclusion or deportation. The new limitations on appeals in the case of claims for discretionary relief or in the case of criminal aliens, and the new rule providing for no automatic stay of removal, are to take effect in all cases for which a final order of exclusion, deportation, or removal is entered after the date of enactment. Regardless of the date of entry of the final order of exclusion or deportation, if the petition for review is filed after the Title III-A effective date, then the permanent changes made by section 306 of this bill shall apply exclusively to such petition for review.

The rules under new section 240A(d)(1) and (2) regarding continuous physical presence in the United States as a criterion for eligibility for cancellation of removal shall apply to any notice to appear (including an Order to Show Cause under current section 242A) issued after the date of enactment of this Act.

SUBTITLE B—CRIMINAL ALIEN PROVISIONS

Section 321—House section 802 recedes to Senate amendment section 161. This section amends INA section 101(a)(43) (as amended by section 440(e)) of the AEDPA (Public Law 104-132)), the definition of "aggravated felony," by: adding crimes of rape and sexual abuse of a minor; lowering the fine threshold for crimes relating to money laundering and certain illegal monetary transactions from $100,000 to $10,000; lowering the imprisonment threshold for crimes of theft, violence, racketeering, and document fraud from 5 years to 1 year; and lowering the loss threshold for crimes of tax evasion and fraud and deceit from $200,000 to $10,000. This section also adds new offenses to the definition relating to gambling, bribery, perjury, revealing the identity of undercover agents, and transporting prostitutes. It deletes the requirement that a crime of alien smuggling be for commercial advantage in order to be considered an aggravated felony, but exempts a first offense involving solely the alien's spouse, child or parent. The amendment provides that the amended definition of "aggravated felony" applies to offenses that occurred before, on, or after the date of enactment.

This section also provides, in section 321(c), that there shall be no ex post facto application of this amended definition in the case of prosecutions under INA section 276(b) (for illegal re-entry into the United States after deportation when the deportation was subsequent to a conviction for an aggravated felony). Thus, an alien whose deportation followed conviction for a crime or crimes, none of which met the definition of aggravated felony under INA section 101(a)(43) prior to the enactment of this bill, but at least one of which did meet the definition after such enactment, may only be prosecuted under INA section 276(b) for an illegal entry that occurs on or after the date of enactment of this bill.

Section 322—Senate recedes to House section 351. This section amends section 101(a) of the INA to add a new paragraph (48), defining conviction to mean a formal judgment of guilt entered by a court. If adjudication of guilt has been withheld, a judgment is nevertheless considered a conviction if (1) the judge or jury has found the alien guilty or the alien has pleaded guilty or nolo contendere and (2) the judge has imposed some form of punishment or restraint on liberty. This section also provides that any reference in the INA to a term of imprisonment or sentence shall include any period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence.

This section deliberately broadens the scope of the definition of "conviction" beyond that adopted by the Board of Immigration Appeals in Matter of Ozkok, 19 I&N Dec. 546 (BIA 1988). As the Board noted in Ozkok, there exist in the various States a myriad of provisions for ameliorating the effects of a conviction. As a result, aliens who have clearly been guilty of criminal behavior and whom Congress intended to be considered "convicted" have escaped the immigration consequences normally attendant upon a conviction. Ozkok, while making it more difficult for alien criminals to escape such consequences, does not go far enough to address situations where a judgment of guilt or imposition of sentence is suspended, conditioned upon the alien's future good behavior. For example, the third prong of Ozkok requires that a judgment or adjudication of guilt may be entered if the alien violates a term or condition of probation, without the need for any further proceedings regarding guilt or innocence on the original charge. In some States, adjudication may be "deferred" upon a finding or confession of guilt, and a final judgment of guilt may not be imposed if the alien violates probation until there is an additional proceeding regarding the alien's guilt or innocence. In such cases, the third prong of the Ozkok definition prevents the original finding or confession of guilt to be considered a "conviction" for deportation purposes. This new provision, by removing the third prong of Ozkok, clarifies Congressional intent that even in cases where adjudication is "deferred," the original finding or confession of guilt is sufficient to establish a "conviction" for purposes of the immigration laws. In addition, this new definition clarifies that in cases where immigration consequences attach depending upon the length of a term of sentence, any court-ordered sentence is considered to be "actually imposed," including where the court has suspended the imposition of the sentence. The

purpose of this provision is to overturn current administrative rulings holding that a sentence is not "actually imposed" in such cases. See Matter of Castro, 19 I&N Dec. 692 (BIA 1988); In re Esposito, Int. Dec. 3243 (BIA, March 30, 1995).

Section 323—Senate recedes to House section 363. This section amends section 263(a) to authorize the registration by the Attorney General of aliens who are or who have been on criminal probation or criminal parole within the U.S.

Section 324—House recedes to Senate amendment section 156(b). This section amends INA section 276(a)(1) to extend criminal liability for an alien who reenters the United States without authorization to an alien who has departed the United States while an order of exclusion or deportation is outstanding.

Section 325—House recedes to Senate amendment section 170B. This section amends section 2424 of title 18 to expand the registration requirements for those who control or harbor alien prostitutes to require earlier filing and to cover aliens of all nationalities.

Section 326—Senate recedes to House section 361. This section amends section 130002(a) of the Violent Crimes Control and Law Enforcement Act of 1994 (VCCLEA) to require that the criminal alien identification system be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be removable on account of criminal or other grounds. The system shall provide for recording of fingerprints of aliens previously arrested and removed into appropriate automated identification systems.

Section 327—House recedes to Senate amendment section 313. This section amends section 130002(b) of VCCLEA (criminal alien tracking center) to establish an authorization for appropriations of $5 million per year for each of fiscal years 1997 through 2001.

Section 328—Senate recedes to House section 305(b) and 843, with modifications. This section amends redesignated INA section 241(i) to provide that funds under the State Criminal Alien Assistance Program may be used for the costs of imprisonment of criminal aliens in a State or local prison or jail, including a jail operated by a municipality. This section also states the sense of Congress that SCAAP funds be distributed on a more expeditious basis. The managers anticipate that States will consult with counties and municipalities regarding their respective costs of detaining illegal aliens.

Section 329—Senate amendment section 170D recedes to House section 356. This section provides authorization for the Attorney General to conduct a 6-month pilot project to identify criminal aliens incarcerated in local governmental prison facilities in Anaheim, California.

Section 330—House section 360 recedes to Senate amendment section 170. This section advises the President to negotiate and renegotiate bilateral prisoner transfer treaties to expedite the transfer to their countries of nationality of aliens subject to incarceration who are unlawfully in the United States or are subject to deportation or removal. The negotiations are to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States, and to eliminate any requirement of prisoner consent to such transfer. The President shall submit an annual certification to the Committees on the Judiciary of the Senate and the House of Representatives, on whether each prisoner transfer treaty in force is effective in returning criminal aliens to their countries of nationality.

Section 331—House recedes to Senate amendment section 170A. This section requires the Secretary of State and Attorney General, within 180 days of the date of enactment, to submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the use and effectiveness of the prisoner transfer treaties with the three countries with the greatest number of their nationals incarcerated in the United States. This section specifies information that shall be provided in such report, and requires the report to include recommendations to increase the effectiveness and use of, and compliance with, such treaties.

Section 332—House recedes to Senate amendment section 168. This section requires the Attorney General, not later than 12 months after the date of enactment, to issue a report detailing populations of alien felons incarcerated in Federal and State prisons, and programs and plans to remove such aliens who are inadmissible or deportable, and to prevent their illegal reentry into the United States.

Section 333—House recedes to Senate amendment section 320. This section requires the United States Sentencing Commission to review and amend current guidelines applicable to offenders convicted of conspiring with or aiding and abetting an alien in committing an offense under section 1010 of the Controlled Substance Import and Export Act (21 U.S.C. 960).

Section 334—Senate recedes to House section 357. House recedes to Senate amendment section 156(b). This section instructs the Sentencing Commission to promptly promulgate amendments to the sentencing guidelines to reflect the amendments made in section 130001 and 130009 of the Violent Crime Control and Law Enforcement Act of 1994.

SUBTITLE C—REVISION OF GROUNDS FOR EXCLUSION AND DEPORTATION

Section 341—Senate recedes to House section 301(f). This subsection amends INA section 212(a)(1)(A) by adding a new clause (ii), making inadmissible any alien who seeks admission as an immigrant who does not present evidence of vaccination against mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations recommended by the Advisory Committee for Immunization Practices. This subsection also provides that this new ground of inadmissibility may be waived if the alien receives the required vaccination, if a civil surgeon or similar official designated in 42 CFR 34.2 certifies that the vaccination would not be medically appropriate, or, if the vaccination would be contrary to the alien's religious or moral beliefs. It is anticipated that this waiver authority would be exercised in appropriate cases to permit admission of aliens where, for example, an alien has been unable to receive a safe dosage or vaccine in the alien's country of nationality, the alien is a child who is required to complete a series of vaccinations over a course of time and has not had a reasonable opportunity to complete that course, or the alien is an active member of a religious faith that notifies the Attorney General that such vaccinations would contradict the fundamental tenets of such religion.

Section 342—House recedes to Senate section 158. This section amends the terrorist exclusion ground, section 212(a)(3)(B), to make inadmissible an alien who, with the intent to cause death or serious bodily harm, has incited terrorist activity.

Section 343—House section 811 recedes to Senate amendment section 155. This section amends section 212(a)(5) to make inadmissible to the United States any alien seeking admission for employment as a health-care worker unless the alien presents a certificate from the Commission on Graduates of Foreign Nursing Schools or an equivalent independent credentialing organization (approved by the Attorney General in consultation with the Secretary of Health and Human Services) verifying the alien's training, licensing, and experience, as well as a level of competency in English appropriate to the position in which the alien will be employed.

Notwithstanding any international trade agreements or treaties, a "health care worker" subject to prescreening under this section should include any alien seeking an immigrant or nonimmigrant visa as a nurse, physical therapist, occupational therapist, speech-language pathologist, medical technologist and technician, physician assistant, or other occupations designated in regulations. The Attorney General should not approve a credentialing organization unless the organization is independent and free of material conflicts of interest regarding whether an alien receives a visa. The organization also should demonstrate an ability to evaluate both the foreign credentials appropriate for the profession and the results of examinations for proficiency in English appropriate for the health care of the kind in which the alien will be engaged, and maintain comprehensive and current information on foreign educational institutions, ministries of health and foreign health care licensing jurisdictions. In addition, because this provision contemplates that alien health-care workers be screened before they arrive in the United States, such organizations should demonstrate an ability to conduct examinations outside the United States.

Section 344—House recedes to Senate amendment section 216. This section amends INA section 212(a)(6)(C) and 241(a)(3) to create new grounds of inadmissibility and deportability in the case of an alien who falsely represents himself to be a citizen of the United States.

Section 345—Senate recedes to House section 362, with modifications. Subsection (a) of this section amends subparagraph 212(a)(6)(F) and adds a new paragraph 212(d)(12), to provide that an alien who is inadmissible for having been subject to a final order for a violation of section 274C (civil document fraud) may have the ground of inadmissibility waived if the alien is a lawful permanent resident or an alien seeking admission as a family-sponsored or employment-based immigrant, and, if no civil money penalty had been imposed, the final order resulted from an offense that was committed solely to assist an individual who at the time of the document fraud offense was the alien's spouse or child (and not another individual). This statutory language makes clear that the family relationship must exist at the time of the civil document fraud offense, not merely at the time the application for the waiver is filed.

Subsection (b) amends subparagraph 241(a)(3)(C) (prior to redesignation as section 237(a)(3)(C)) to provide a similar waiver for an alien who is deportable due to a section 274C violation. The same limitations on family relationship are to apply. No court shall have jurisdiction to review a decision whether or not to grant a waiver under either of these subsections.

Section 346—House recedes to Senate amendment section 214(b), with modifications. This section amends INA section 212(a)(6) to add a new subparagraph (G), making inadmissible for 5 years any alien who obtains a visa as a nonimmigrant student under section 101(a)(15)(F)(i) and who violates a term or condition of the nonimmigrant status.

Section 347—House recedes to Senate amendment sections 217(b) and 217(c). This section adds new sections 212(a)(10)(F) and 241(a)(7) creating, respectively, new grounds of inadmissibility and deportability in the case of an alien who has voted in an election in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation.

Section 348—Senate recedes to House section 301(h), with modifications. This section amends INA section 212(h) to limit waivers granted under that provision in the case of an immigrant previously admitted to the United States. An alien is ineligible for such a waiver if since admission as a lawful permanent residence, the alien has been convicted of an aggravated felony, or if the alien has not lawfully resided in the United States for a continuous period of 7 years prior to notification to the alien of proceedings to remove the alien from the United States. The managers intend that the provisions governing continuous residence set forth in INA section 240A as enacted by this legislation shall be applied as well for purposes of waivers under INA section 212(h).

Section 349—Senate recedes to House section 301(d), with modifications. This subsection revises INA section 212(i) to provide that the ground of inadmissibility under section 212(a)(6)(C) (fraud and misrepresentation) may be waived in the case of a spouse, son, or daughter of a United States citizen or of a lawful permanent resident, if the refusal of admission would result in extreme hardship to the citizen or lawfully resident spouse or parent. No court shall have jurisdiction to review a decision regarding such a waiver.

Section 350—House recedes to Senate amendment section 218 with modifications. This section amends INA section 241(a)(2) (prior to redesignation as section 237(a)(2)) to provide that an alien convicted of crimes of domestic violence, stalking, or child abuse is deportable. The crimes of rape and sexual abuse of a minor are elsewhere classified as aggravated felonies under INA section 101(a)(43), thus making aliens convicted of those crimes deportable and ineligible for most forms of immigration benefits or relief from deportation.

Section 351—This section amends INA sections 212(d)(11) and 241(a)(1)(E)(iii), regarding waivers, respectively, of excludability and deportability in the case of an alien who has engaged in alien smuggling if the act of smuggling was solely to aid certain close family members. The amendment clarifies that the family relationship must exist at the time of the act of smuggling. Thus, an alien does not qualify for the waiver if the spousal or parent-child relationship is established after the offense, but prior to the date of application for the waiver. The managers specifically disapprove of and intend to override the recent contrary holding of the Board of Immigration Appeals. See Matter of Farias, Int. Dec. 3269 (BIA 1996).

Section 352—Senate recedes to House section 301(e), with modification to make the ground of inadmissibility applicable to those who renounce citizenship after enactment.

Section 353—This section identifies other sections of this Act that make changes to grounds of inadmissibility or deportability.

SUBTITLE D—REMOVAL OF ALIEN TERRORISTS

Section 354—Senate recedes to House section 321, with modifications. This section amends INA section 504, as enacted by section 401 of AEDPA (Public Law 104–132), to provide, among other things, that the special deportation procedures employed in the case of an alien terrorist may proceed in the event that no summary of classified evidence being used against the alien can be provided to the alien without disclosing classified information. In such circumstances, a special attorney shall be appointed for the alien (in addition to the attorney who may have been appointed to represent the alien in the main proceedings). The special attorney shall be entitled to review the classified evidence that is not disclosed or summarized for the alien, but may not disclose that information to any other person, including to the alien.

Section 355—Senate recedes to House section 331, with modifications. This section amends INA section 212(a)(3)(B)(i)(IV) as inserted by section 411(1)(C) of AEDPA to clarify that when a member of an organization which engages in or actively supports or advocates terrorist activity is excludable from the U.S.

Section 356—Senate recedes to House section 331, with modifications. This section amends section 219(b), as added by section 302(a) of AEDPA, to clarify the standard for judicial review of a designation of an organization as a terrorist organization.

Section 357—Senate recedes to House section 332. This section clarifies that relief under INA section 244(e)(2) (voluntary departure) is not available to an alien in proceedings under Title V of the INA, as inserted by AEDPA.

Section 358—This section provides that the effective date for the provisions in this subtitle shall be effective as if included in the enactment of subtitle A of title IV of AEDPA, as enacted on April 24, 1996.

SUBTITLE E—TRANSPORTATION OF ALIENS

Section 361—Senate amendment section 151(a) recedes to House section 341. This section amends INA section 101 to add a new paragraph (47), defining "stowaway" to mean any alien who obtains transportation without consent including through concealment. A passenger who boards with a valid ticket is not to be considered a stowaway.

Section 362—Senate recedes to House amendment section 343. This section amends INA section 238, before redesignation as section 233, to clarify that the authority of the INS to enter into contracts with carriers who transport aliens to the United States applies regardless of the point of departure of such aliens, and is not limited to departures from contiguous territories. The authority also is extended to cover transportation by rail.

SUBTITLE F—ADDITIONAL PROVISIONS

Section 371—Senate amendment section 183 recedes to House section 352, with modifications. Subsection (a) amends paragraph (4) of section 101(b) to replace the definition of "special inquiry officer" with a definition of "immigration judge": an attorney designated by the Attorney General as an administrative judge within the Executive Office for Immigration Review to conduct proceedings, including proceedings under section 240. Subsection (b) substitutes the term "immigration judge" for "special inquiry officer" wherever it appears in the INA.

Subsection (c) establishes a four-level pay scale for immigration judges, beginning at 70 percent and reaching 92 percent of the next-to-highest rate of basic pay for the Senior Executive Service.

Section 372—House recedes to Senate amendment section 171(c). This section amends INA section 103(a) to provide that in the event of a mass influx of aliens off the coast of the United States or at a land border, the Attorney General may authorize a State or local law enforcement officer, with the consent of the officer's superiors, to perform duties of immigration officers under the INA.

Section 373—House recedes to Senate amendment section 329. This section amends INA section 103(a) to clarify the authority of the Attorney General to use appropriated funds for the care and security of individuals detained by the Service through agreements with State and local governments. This provision also grants authority for the Attorney General to contract with State and local authorities for construction, renovation, and acquisition of equipment in support of the detention of aliens held by the INS in State and local facilities.

Section 374—House recedes to Senate amendment section 165(a)(2)(A), with modifications, and Senate amendment section 167. This section extends the authority for judicial deportation under INA section 242A(c) (redesignated as section 238(c)) to any case in which an alien is deportable. This section also clarifies that no denial of a request for a judicial order of deportation (including a decision on the merits) shall preclude the Attorney General from initiating deportation proceedings before an immigration judge on the same or different ground of deportability. Finally, this section permits the entry of a stipulated order of deportation as part of a plea agreement.

Section 375—House recedes to Senate amendment section 181. This section amends INA section 245(c) to make ineligible for adjustment of status aliens who are not in lawful nonimmigrant status, who have violated the terms of their nonimmigrant visa, or who have engaged in unauthorized employment.

Section 376—Senate recedes to House section 808, with modifications. This section amends INA section 245(i) to provide that an alien applying for adjustment of status under this provision shall pay a fee of $1,000, not less than $800 of which shall be paid into an Immigration Detention Account. This section also amends INA section 286 to provide for creation and operation of the Immigration Detention Account.

Section 377—House recedes to Senate amendment section 180. This section amends INA section 245A to put an end to litigation seeking to extend the amnesty provisions of the Immigration Reform and Control Act of 1986, and to limit claims under that section to aliens who in fact filed an application for legalization under that section within the prescribed time limits, or attempted to do so but their application was refused by an immigration officer.

Section 378—Senate amendment section 176 recedes to House section 353. This section amends section 246(a) of the INA to clarify that the Attorney General is not required to rescind the lawful permanent resident status of a deportable alien separate and apart from the removal proceeding under section 240.

Section 379—House recedes to Senate amendment section 323, with modifications. This section amends sections 274A and 274C to clarify when the decision and order of an administrative law judge under these sections becomes final.

Section 380—Senate amendment section 143(a) recedes to House section 354. This section adds a new section 274D to the INA, providing that aliens under an order of removal

who willfully fail to depart or to take actions necessary to permit departure (e.g., apply for travel documents) are subject to a civil penalty of up to $500 for each day in violation. This section would not diminish the criminal penalties at section 243(a) (for failure to depart) or at any other section of the INA.

Section 381—Senate recedes to House section 355. This section clarifies that the grant of jurisdiction under section 279 of the INA is to permit the Government to institute lawsuits for enforcement of provisions of the INA, not for private parties to sue the Government. This has no effect on other statutory or constitutional grounds for private suits against the Government.

Section 382—Senate recedes to House section 359. This section amends section 280(b) to provide for establishment of an Immigration Enforcement Account, into which shall be deposited the civil penalties collected under sections 240B(d), 274C, 274D, and 275(b), as amended by this bill. The collected funds shall be used for specified immigration enforcement purposes.

Section 383—House recedes to Senate amendment section 319, with modifications. This section amends section 301 of the Immigration Act of 1990 to exclude from "family unity" protection aliens who have committed certain serious offenses while juveniles.

Section 384—Senate amendment section 331 recedes to House section 364, with modifications. This section provides that the Attorney General shall not make an adverse determination of admissibility or deportability against an alien or an alien's child, using information furnished solely by certain individuals who have battered or subjected to extreme cruelty that alien or that alien's child, unless the alien has been convicted of a crime identified in redesignated section 237(a)(2). Neither shall the Attorney General permit use by, or disclosure to any person (other than an officer of the Department of Justice for official and certain other designated purposes) of any information that relates to an alien who is the beneficiary of an application for relief (which has not been denied) under section 204(a)(1)(A) and (B) (self-petition for immigrant visa by alien who has been battered or subject to extreme cruelty), section 216(c)(4)(C) (hardship waiver allowing removal of conditional permanent resident status based on qualifying marriage because alien spouse or child has been subject to battery or extreme cruelty), or section 244(a)(3) (suspension of deportation for alien spouse or child who has been subject to battery or extreme cruelty). Civil penalties are established for willful violations.

Section 385—Senate amendment section 148 recedes to House section 358. This section authorizes to be appropriated beginning in fiscal year 1996 the sum of $150,000,000 for costs associated with the removal of inadmissible or deportable aliens, including costs of detention of such aliens pending their removal. This section is intended to authorize sufficient funds in fiscal year 1996 for the hiring of 475 detention and deportation officers and support personnel and 475 investigators and support personnel.

Section 386—Subsection (a): House section 303(b) recedes to Senate amendment section 106. This section requires, subject to appropriations, an increase in INS detention facilities to 9,000 beds by the end of FY 1997. Subsection (b): House recedes to Senate amendment section 182, with modifications. This subsection requires that within 6 months of the date of enactment, and every 6 months thereafter, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives estimating the amount of detention space that will be required in the current fiscal year, and in each of the succeeding 5 fiscal years, to detain all aliens required to be detained under INA sections 236(c) (as amended by section 303(a) of this Act) and 241(a) (as amended by section 305(a) of this Act), to detain other illegal aliens in accordance with the detention priorities of the Attorney General, and to detain all inadmissible and deportable aliens subject to proceedings under INA sections 235(b)(1) or (2), 238, and 240. The report also shall include other specified information regarding the release of criminal aliens and other illegal aliens into the community.

Section 387—Senate amendment section 153 recedes to House section 112. This subsection requires a pilot program to determine the feasibility of using military bases available as a result of base closure laws as INS detention centers, and specifies that in selecting real property at a military base for such purpose, the Attorney General and Secretary of Defense consult with the redevelopment authority established for the base and give substantial deference to the redevelopment plan for the base. This section also requires a report not less than 30 months after enactment to the Committees on the Judiciary of the House of Representatives and the Senate on the feasibility of using closed military facilities as INS detention centers.

Section 388—Section 437 of AEDPA (Public Law 104-132), requires the Attorney General to implement within 180 days of enactment a program to repatriate aliens who have illegally entered the United States not less than 3 times, and who are being removed to a country contiguous to the United States, to a location not less than 500 kilometers from that country's border with the United States. In light of this enactment, the pilot programs in House section 111 and Senate amendment section 152 are unnecessary. The Senate recedes to House section 111(b), requiring a report to the Committees on the Judiciary of the House of Representatives and Senate regarding interior repatriation, with modification to refer to the mandate in section 437 of AEDPA.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

SUBTITLE A—PILOT PROGRAMS FOR EMPLOYMENT ELIGIBILITY CONFIRMATION

Sections 401 through 405—Senate amendment sections 111–115 recede to House section 401, with modifications. Subtitle A sets up three pilot programs of employment eligibility confirmation which will last four years each. These programs generally will be operated according to the pilot program procedures set out in House section 401. Participation in the pilot programs will be voluntary on the part of employers, except with regard to the executive and legislative branches of the Federal Government and certain employers who have been found to be in violation of certain sections of the Immigration and Nationality Act. Volunteer employers may have their elections apply to all hiring in all State(s) in which a pilot program is operating, or to their hiring in only one or more pilot program States or places of hiring within any such States. The Attorney General may reject elections or limit their applicability where the pilot program would have insufficient resources available to allow the company to participate in the pilot to the extent desired. The Attorney General may permit a participating employer to have its election apply to hiring in States in which the chosen pilot program is not otherwise operating (if the State meets the requirements of the pilot program). If an electing employer fails to comply with its obligations under a pilot program, such as by not complying with the program requirements for all new employees covered by its election, the Attorney General may terminate the employer's participation in the pilot program. An employer may also choose to terminate its participation (in such form and manner as the Attorney General may specify). If an employer required to participate in a pilot program fails to comply, such failure will be treated as a paperwork violation of the Immigration and Nationality Act's employment verification requirement, and a rebuttable presumption will arise that the employer has hired aliens knowing that they are unauthorized to work in the United States.

An employer participating in a pilot program who receives confirmation of an employee's identity and employment eligibility under the program will benefit from a rebuttable presumption that the employer has not hired an alien knowing the alien is unauthorized to work. Also, the Attorney General shall designate one or more individuals in each INS District Office for a Service District in which a pilot program is being implemented to assist employers in electing and participating in the program, and in more generally complying with INA section 274A.

The first pilot program, the basic pilot program, originates in House section 401. Employers in (at a minimum) five of the seven States with the highest number of illegal aliens may elect to participate. As under current law, the employer will have to complete the document review process described in INA section 274A(b) (as modified to increase the reliability of identification documents). However, if the Attorney General determines that an employer participating in this (or either of the other two) pilot program(s) can reliably determine a new employee's identity and authorization to work in the United States relying only on the pilot program procedures (discussed below) and a document review process including only documents confirming identity, the Attorney General can exempt participating employers from having to review documents confirming employment authorization.

Under the basic pilot program, employers would then make inquiries (within three days of hire) to the Attorney General (or a designee) by means of toll-free telephone line or other toll-free electronic media to seek confirmation of the identity and employment eligibility of new employees. Employers would be given additional time to make inquiries in situations where the confirmation system did not receive their initial inquiry, for instance because the system's phone lines were overloaded or out of operation. While the pilot program could not require that participating employers pay any fee to participate, employers would be responsible for providing the equipment needed to make inquiries. In most cases, this would simply be a telephone. However, if an employer wanted to use, for instance, a computer and modem to make large numbers of inquiries at once, the employer would have to provide such equipment. When making an inquiry, an employer would provide a new employee's name and social security number (and, if the employee had not attested to being a citizen, the employee's INS-issued number).

Through the confirmation system, this information provided in the inquiry will be

checked against existing Federal Government records in order to provide (or not provide) confirmation of identity and work authorization. No new types of records will be added to government databases. The confirmation system will respond within three days of an inquiry—either by providing confirmation of the employee's identity and authorization to work or by providing a tentative nonconfirmation (in both cases, an appropriate code will be provided the employer by the system). After being notified of the tentative nonconfirmation, the employee can chose to contest or not contest the finding. If the employee does not contest the finding, the non-confirmation is considered final. If the employee does contest the finding, he or she—within a 10-day secondary verification period—will communicate with the Commissioner of Social Security and/or the Commissioner of the Immigration and Naturalization Service to resolve those issues preventing the confirmation system from confirming the employee's identity and work authorization. By the end of the secondary verification period, the confirmation system must provide either a final confirmation or a final nonconfirmation (and appropriate code) to the employer. An employer shall not terminate employment of an employee because of a failure to have identity and work authorization confirmed under the pilot program until a nonconfirmation becomes final. However, the employer can terminate the employee for other reasons (as consistent with applicable law), such as the failure of the employee to show up for work following a tentative nonconfirmation.

An employer, once provided with final nonconfirmation with regard to an employee, may either terminate the individual or continue his or her employment. If the employer continues to employ the individual, the employer must notify the Attorney General of this decision. Failure to notify will be deemed to be a paperwork violation and will be subject to enhanced paperwork violation penalties. Also, if the employer continues employment, a rebuttable presumption is created that the employer has hired the employee knowing the employee is unauthorized to work in the United States. The option of continued employment is only intended for the rare circumstance where an employer has knowledge independent of the confirmation process that the employee is eligible to work in the United States—such as knowing the employee since childhood.

The second pilot program, the citizenship-attestation pilot program, originated in Senate amendment section 112(a)(2)(G). It will operate in at least 5 States or, if fewer, all of the States that issue driver's licenses and identification cards with enhanced security features and procedures. However, employers can only participate in this pilot program in the sole discretion of the Attorney General. It will operate like the basic pilot program, with one important modification. If an employee attests to being a citizen, the employer is not required to (1) review documents confirming employment authorization when completing the 274A(b) document review process, or (2) make an inquiry through the confirmation system. This pilot program is designed to make the hiring process as easy and pitfall-free as possible for citizens and their employers. Its success depends in part on the effectiveness of this Act's heightened penalties for falsely attesting to U.S. citizenship.

A variation of the citizen-attestation pilot project will be open to election by a maximum of 1,000 employers chosen by the Attorney General. Under this program, employers do not have to comply with any part of the 274A(b) document review process with regard to new employees who attest to being citizens. Otherwise, the program is identical in nature to the citizen-attestation pilot program.

The third pilot program, the machine-readable document pilot program, originates in Senate section 112(a)(2)(F). It will operate as does the basic pilot program, except that if the new employee presents a State-issued identification document or driver's license that includes a machine-readable social security number, the employer will make an inquiry through the confirmation system by using a machine-readable feature of such document. The employer would have to procure the device needed to read the machine-readable document and to supply the information needed for the inquiry through the machine-readable feature of the document. Since the Social Security Administration does not keep up-to-date records of the employment eligibility of aliens, those employees who do not attest to citizenship will also have to provide their INS-issued numbers, which the employers will pass on when making inquiries through the confirmation system. Employees not possessing machine-readable documents will be confirmed as under the basic pilot program.

The machine-readable document pilot program is of course limited by the number of States which issue such enhanced documents and the fact that even in such States, not all individuals will have the machine-readable documents. Thus, it will only operate in at least 5 of the States (or, if fewer, all of the States) which issue driver's licenses and other identification documents with a machine-readable social security number (which need not be visible on the card). States are encouraged to issue such documents since use of machine-readable documents makes the confirmation process simpler and provides additional assurance that the documents are genuine.

Employers participating in any of the pilot programs are shielded from civil or criminal liability for actions taken in good faith reliance on information provided through the confirmation system—such as firing a new employee after receiving a final nonconfirmation of identity and/or work authorization through the confirmation system or continuing to employ an employee after receiving final confirmation.

Nothing in Subtitle A shall be construed to permit the Federal Government to utilize any information, data base, or other records assembled under the subtitle for any purpose other than as provided for under one of the three pilot programs. In addition, nothing in the subtitle shall be construed to authorize the issuance or use of national identification cards or the establishment of a national identification card. The confirmation system shall be designed and operated to, among other things, maximize its reliability and ease of use consistent with insulating and protecting the privacy and security of the underlying information, prevent the unauthorized disclosure of personal information, and ensure that the system not result in unlawful discriminatory practices based on national origin or citizenship status. Finally, the INS and Social Security Administration shall update their information in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

SUBTITLE B—OTHER PROVISIONS RELATING TO EMPLOYER SANCTIONS

Section 411—Senate recedes to House section 402, with modifications. This section provides those employers who in good faith make technical or procedural errors in complying with INA section 274A(b) an opportunity to correct those errors without penalty.

Section 412(a)—House section 403(a) recedes to Senate amendment section 116(b), with modifications. This provision reduces the number of documents that can be used to establish an individual's employment authorization and/or identity under section 274A(b) of the Immigration and Nationality Act. To establish both employment authorization and identity, an individual may present a 1) a U.S. passport, or 2) a resident alien card, alien registration card, or other document designated by the Attorney General, all of which must meet certain standards (including having certain security features). The other documents designated by the Attorney General may include an unexpired foreign passport which has an appropriate, unexpired endorsement of the Attorney General or an appropriate unexpired visa authorizing the individual's employment in the United States. To establish employment authorization, an individual may present a social security account number card or certain other documentation found acceptable by the Attorney General. No change has been made from current law as to the documents which may be presented to establish identity. Finally, the Attorney General may prohibit or place conditions on the use of any documents for purposes of section 274A(b) if they are found to not reliably establish employment authorization or identity or are being used fraudulently to an unacceptable degree.

Section 412(b)—Senate recedes to House section 403(b), with modifications. This provision provides a streamlined confirmation process under INA section 274A(b) for a new employee who is beginning work for a member of an employer association that has concluded a collective bargaining agreement with an organization representing the employee and the employee has within a specified period worked for another member of the association who has complied with the requirements of section 274A(b) with respect to the employee. If these conditions are met, the current employer is deemed to have complied with the requirements of section 274A(b) with respect to the employee.

Section 412(c)—Senate recedes to House section 403(c). This provision eliminates obsolete provisions of the Immigration and Nationality Act.

Section 412(d)—Senate recedes to House section 403(d). This provision clarifies that the Federal government must comply with section 274A of the Immigration and Nationality Act, which makes unlawful the knowing employment of aliens not authorized to work in the United States and requires employers to confirm the identity and employment authorization of new employees.

Section 413—Senate recedes to House section 404(c)(2). This provision requires the Attorney General to submit to Congress a report on additional authority or resources needed to enforce section 274A of the Immigration and Nationality Act and the Executive Order of February 13, 1996 (prohibiting Federal contractors from knowingly hiring aliens not authorized to work in the United States).

Section 414—Senate recedes to House section 405, with modifications. This provision requires the Commissioner of Social Security to prepare annual reports regarding social security account numbers issued to aliens not authorized to be employed, with

respect to which, in a fiscal year, earnings were reported to the Social Security Administration, and a single report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.

Section 415—Senate recedes to House section 406. This section authorizes the Attorney General to require aliens to provide their social security account numbers.

Section 416—House recedes to Senate amendment section 120A(a)(1). This section provides that certain immigration officers may compel by subpoena the attendance of witnesses and the production of documents while conducting investigations of potential violations by employers of section 274A(a) of the Immigration and Nationality Act.

SUBTITLE C—UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Section 421—House section 407(b) recedes to Senate section 117. This provision provides that an employer's request of a new employee for more or different documents than are required to confirm an employee's identity and authorization to work in the United States under INA section 274A(b) or an employer's refusal to honor documents that reasonably appear to be genuine shall only be considered unfair immigration-related employment practices under INA section 274B(a)(1) if made for the purpose or with the intent of unlawfully discriminating against the employee on the basis of citizenship status or national origin.

TITLE V—RESTRICTIONS ON BENEFITS FOR ALIENS

Section 500—Senate recedes to House section 600 with modifications to divide this section into two parts: subsection (a), setting forth a series of statements of congressional policy regarding aliens and public benefits; and subsection (b), stating the sense of Congress that: (1) courts should apply the same standard of review to States choosing to restrict their public benefits programs pursuant to the authorizations contained in this Act as the court uses in determining whether an Act of Congress regulating the eligibility of aliens for public benefits is constitutional; and (2) if a court applies the strict scrutiny standard of constitutional review, the court shall consider the State law to be the least restrictive means available for achieving the compelling government interest of assuring that aliens be self-reliant in accordance with national immigration policy. The purpose of the congressional grants of authority to States regarding eligibility for public benefits contained in this Act is to encourage States to implement the national immigration policy of assuring that aliens be self-reliant and not become public charges—a fundamental part of U.S. immigration policy since 1882.

SUBTITLE A—ELIGIBILITY OF EXCLUDABLE, DEPORTABLE, NONIMMIGRANT ALIENS FOR PUBLIC ASSISTANCE AND BENEFITS

Sections 501 and 502—House section 601 recedes to Senate amendment section 201(a)(1) with modifications. These sections bar ineligible aliens (as defined herein) from Federal, State, and local public benefits programs, contracts, grants, loans, and licenses, with specified exemptions (as defined herein).

In general, ineligible aliens should not take advantage of taxpayers by accessing public benefits. However, the managers believe that certain public health, nutrition, and in-kind community service programs should be exempted from the general prohibition on ineligible aliens accessing public benefits. The exemption for public health assistance for immunizations is not intended to be limited to immunizations under the Public Health Service Act, but refers to all immunizations. In the subparagraph treating certain battered aliens (or certain aliens subjected to extreme cruelty) as eligible aliens, the managers believe that the phrase "an alien whose child has been battered or subjected to extreme cruelty" includes children who have been sexually molested.

The managers intend that the inclusion of parolees who are paroled into the U.S. for a period of at least one year in the definition of eligible alien refers only to the period for which such aliens are authorized to remain in the U.S. after their parole. The statement contained in the Committee Report accompanying the Senate Amendment, that such reference referred to parolees who had been present in the U.S. for one year or more, does not reflect the intention of the managers as stated herein.

In defining "means-tested public benefit," (for purposes of sections 501, 551, 552), the managers do not intend to include programs which do not consider an applicant's income in the disbursement of assistance. For example, Title I grants under the Elementary and Secondary Education Act of 1965 are provided to school districts with significant numbers of needy students. Since all students in that district will receive assistance from these funds—regardless of each student's financial status—neither "deeming" (see section 552) nor the prohibition on receipt by illegal aliens are applicable. ESEA is exempted under sections 551 and 552 only because certain means-tested benefits (such as Elleander Fellowships) are authorized under that Act as well.

Many States use Federal block grant monies to provide services to the poor which are not within the scope of what the managers consider "means-tested." For example, soup kitchens and homeless shelters serve needy individuals, but the operators do not require each applicant to demonstrate financial need. Similarly, if a State chose to use money from the Social Service Block Grant to fund the administrative costs of a youth soccer league in a poor area of that State, such a benefit would not be considered "means-tested" under this Act.

The exception for treatment of communicable diseases is very narrow. The managers intend that it only apply where absolutely necessary to prevent the spread of such diseases. The managers do not intend that the exception for testing and treatment for communicable diseases should include treatment for the HIV virus or acquired immune deficiency syndrome. This exception is only intended to cover short-term measures that would be taken prior to the departure of the alien from the United States. It does not provide authority for long-term treatment of such diseases or a means for illegal aliens to delay their removal from the country.

The allowance for emergency medical services also is very narrow. The managers intend that it only apply to medical care that is strictly of an emergency nature, such as medical treatment for emergency treatment administered in an emergency room, critical care unit, or intensive care unit. Emergency medical services do not include pre-natal or delivery care, or post-partum assistance, that is not strictly of an emergency nature as specified herein—including State-funded or administered pre-natal and post-partum care. The managers intend that any provision of services under this exception for mental health disorders be limited to circumstances in which the alien's condition is such that he is a danger to himself or to others and has therefore been judged incompetent by a court of appropriate jurisdiction.

Section 503—House section 602 recedes to Senate amendment section 201(b) with modifications to eliminate the crediting of employment for purposes of unemployment benefits for individuals in PRUCOL status.

Section 504—House recedes to Senate amendment section 201(c) with modifications. This section amends section 202 of the Social Security Act to provide that no Social Security benefits may be paid to an alien not lawfully present in the United States. This section also amends section 210 of the Social Security Act to provide that periods of unauthorized employment shall not count towards an alien's eligibility for Social Security retirement benefits. The managers intend to allow sufficient time for the Social Security Administration to comply with this provision in order for SSA field offices to develop appropriate screening procedures.

Section 505—Senate recedes to House section 601(c) with modifications to amend the SAVE program. This section requires proof of identity for all applicants in addition to the verification requirements for non-citizens under section 1137(d) of the Social Security Act.

Section 506—Senate recedes to House section 601(d). This section authorizes State and local governments to require proof of eligibility (including identity) from applicants for State and local public benefits programs.

Section 507—House recedes to Senate amendment section 201(a)(2) with modifications. This section provides that illegal aliens are not eligible for in-state tuition rates at public institutions of higher education.

Section 508—Senate recedes to House section 606. House recedes to Senate amendment section 205. This section requires that applicants for post-secondary financial assistance be subject to verification of their eligibility prior to receiving such assistance. The managers believe that House section 606 reflects the current practice of the Department of Education regarding the verification of student eligibility for postsecondary financial assistance.

Section 509—House recedes to Senate amendment sections 324 and 326. These sections amend the Social Security Act, and the Higher Education Act of 1986 to require the submission of photostatic or similar copies of documents or information specified by the INS for verification of an alien's immigration status.

Section 510—House recedes to Senate amendment section 201(e) with modifications. This section requires Federal, State, and local public benefits agencies to verify an applicant's eligibility (including the amount of eligibility) prior to the administration of public benefits by a non-profit charitable organization. The managers believe that non-profit charitable organizations themselves should not have to verify immigration status or determine the eligibility of aliens for public benefits, e.g., by "deeming" the income of sponsors to immigrant applicants for assistance (see section 552). The managers also believe, however, that the appropriate Federal or State agency must verify and determine the amount of eligibility of aliens for public benefits before a non-profit charitable organization may distribute means-tested benefits to such aliens.

Section 511—Senate recedes to House section 607, with modifications. This section requires the Comptroller General to submit a report to the Committees on the Judiciary of

the House of Representatives and the Senate regarding the receipt of means-tested public benefits by ineligible aliens on behalf of U.S. citizens and eligible aliens. The managers note that illegal aliens often access public benefits, such as AFDC and Food Stamps, for which they themselves are ineligible, by applying for such benefits on behalf of their U.S. citizen or legal immigrant children.

SUBTITLE B—EXPANSION OF DISQUALIFICATION FROM IMMIGRATION BENEFITS ON THE BASIS OF PUBLIC CHARGE

Section 531—Senate recedes to House section 621 with modifications. This section amends INA section 212(a)(4) to expand the public charge ground of inadmissibility. Aliens have been excludable if likely to become public charges since 1882. Self-reliance is one of the most fundamental principles of immigration law. The managers believe that all family-sponsored immigrants, and certain employment-based immigrants, should have affidavits of support executed on their behalf as a condition of admission.

Section 532—House recedes to Senate amendment section 202 with modifications. This section amends INA section 241(a)(5) to expand the public charge ground of deportation. Aliens who access welfare have been deportable as public charges since 1917. However, only a negligible number of aliens who become public charges have been deported in the last decade. The managers believe that aliens who become public charges within 7 years of their admission to the United States should promptly be removed from the country. Just as with the definition of "eligible alien" in section 501, the exception in section 532 for battered children includes children who are victims of sexual molestation.

SUBTITLE C—AFFIDAVITS OF SUPPORT AND ATTRIBUTION OF INCOME

Section 551—House recedes to Senate amendment section 203 with modifications. This section creates a new, legally-binding affidavit of support in order to seek reimbursement from sponsors for the costs of providing public benefits. The managers intend that the affidavit of support be a legally-binding contract between an alien's sponsor, the sponsored alien, and the government. The managers also intend that public hospitals, private hospitals, and community health centers be allowed to seek reimbursement from sponsors for the costs of providing emergency medical services to the extent such services would, in the absence of the deeming requirements of section 552, be reimbursed by means-tested public benefit programs. The managers further intend that the new, legally enforceable, affidavit of support be used in all cases where an affidavit of support is required (including for nonimmigrants and aliens granted parole under section 212(d)(5) of the INA), either by statute, regulation, or administrative practice. Exceptions to the definition of "means-tested public benefit" include public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment of such disease. However, the exception applies in the case of HIV infection to testing only.

The provision is designed to encourage immigrants to be self-reliant in accordance with national immigration policy. The managers intend to establish a process that will authorize visas only for those applicants whose sponsors (both the petitioning sponsor as defined in subsection (g)(1), (g)(2), (g)(3), or (g)(4)) and any non-petitioning sponsor as defined in subsection (g)(5)) demonstrate the means to meet the applicable income requirements (as set forth in subsection (g)). It is expected that an applicant whose sponsors fail to demonstrate the means to meet the applicable income requirements will be denied a visa, and that the next applicant in the queue will then be given an opportunity to qualify. The managers further intend that an applicant whose petitioning sponsor or non-petitioning sponsor (or both) is unable to meet the applicable income requirements in the initial interview may be afforded one additional opportunity to meet such requirements. If such applicant has already utilized a non-petitioning sponsor at the initial interview, and such non-petitioning sponsor was unable to meet the applicable income requirements, such applicant may be provided one additional opportunity to demonstrate that the non-petitioning sponsor meets the applicable income requirements, but may not be authorized in the second interview to substitute a new or different non-petitioning sponsor. The managers intend that applicants shall have no more than two opportunities to demonstrate that their sponsor (or sponsors) meets the applicable income requirements.

Section 552—House recedes to Senate amendment section 204 with modifications. This section deems that a sponsor's income is to be counted with a sponsored alien's in determining the alien's eligibility for public benefits. In subsection (c)(4), the managers intend for the Attorney General to enter information regarding the eligibility (including the amount of eligibility) of aliens for public benefits into the SAVE system as a means for all public benefits agencies to access such information for purposes of determining eligibility and seeking reimbursement. In subsection (d)(1), the managers believe that the scope of the exception to deeming in cases of indigence is very narrow, and only applies to situations where a sponsor and the sponsor's spouse cannot or will not provide needed support, and the sponsored alien could not obtain food or shelter without assistance from a public benefits agency. In determining whether a sponsored alien could obtain food or shelter in such a situation, the agency making the determination shall take into account whether the sponsored alien could obtain assistance for food or shelter from a privately-funded organization, and if so, shall refer the alien to such organization in lieu of providing benefits. The agency must notify the Attorney General when exercising this exception.

Under current law, all three programs which "deem" sponsor income exclude a portion of the sponsor's income in their calculations. This legislation rejects this approach. At entry, a sponsor and the sponsored alien are considered to be part of one family unit (living under the same roof), and all of the sponsor's income is considered to be available—just as would be available to the sponsor's spouse or child. The same approach should be used at adjudication for benefits. All of the income of the sponsor and the sponsor's spouse should be deemed to be available to the sponsored alien, as though the sponsored alien is a member of the same family unit (and lives under the same roof) as the sponsor.

Subsection (d) provides that the deeming rules shall not apply to Medicaid assistance used for emergency medical services. Under subsection 552(f), just as in the case of the definition of "eligible alien" in section 501, the exception to deeming rules for battered children includes children who are victims of sexual molestation.

Section 553—House recedes to Senate amendment section 204(e). This section authorizes State and local government to follow the Federal Government in deeming a sponsor's income to a sponsored alien who applies for public benefits. The managers intend to authorize States to enact sponsor-to-alien deeming laws as part of the national immigration policy that aliens be self-reliant. If a State deeming law, enacted pursuant to the authorization contained in this section, should be challenged in court, the managers intend that the court shall apply the standard of review described in section 500(b)(1) of this Act.

Section 554—House recedes to Senate amendment section 206. This section authorizes State and local governments to enact alienage restrictions in State and local cash public assistance programs. The managers intend to authorize States to prohibit or otherwise limit eligibility of aliens for general cash assistance as part of the national immigration policy that aliens be self-reliant, but only to the extent that such limit is not more restrictive than under comparable Federal programs. If a State restriction, enacted pursuant to the authorization contained in this section, should be challenged in court, the managers intend that the court shall apply the standard of review contained in section 500(b)(1) of this Act.

SUBTITLE D—MISCELLANEOUS PROVISIONS

Section 561—House recedes to Senate amendment section 207 with modifications. This provision increases the maximum criminal penalties for forging or counterfeiting a Federal seal or facilitating the fraudulent obtaining of public benefits by aliens.

Section 562—Senate recedes to House section 812, with modification. This section amends INA section 412(c)(2) to specify that in the computation of targeted refugee resettlement assistance, each county shall receive the same amount of assistance for each refugee and entrant residing in the county at the beginning of each fiscal year (counting those refugees and entrants who arrived within 60 months prior to that fiscal year).

Section 563—Senate recedes to House section 604 with modifications. This provision allows public hospitals to seek reimbursement for costs incurred from providing emergency medical services to illegal aliens if the immigration status of individuals for whom reimbursement is sought has been verified, but is not intended to create an entitlement for such reimbursement.

Section 564—House recedes to Senate amendment section 211 with modifications. This provision allows States to be reimbursed for emergency ambulance service costs provided to certain illegal aliens who are injured while attempting to enter the U.S., but is not intended to create an entitlement for such reimbursement.

Section 565—House recedes to Senate amendment section 315 with modifications. This section establishes a pilot program to require bonds in addition to sponsorship and deeming requirements for the purposes of overcoming excludability as a public charge under INA section 212(a)(4). The managers believe that where bonds are used to overcome the grounds for exclusion as a public charge, whether in this pilot program or in current INA section 213, the bonds should be required in addition to, not in lieu of, the new sponsorship and deeming requirements created in this Act.

Section 566—The managers agree to require a series of reports by the Attorney General regarding the affidavit of support, attribution of sponsor income, public charge

deportation, and non-profit charitable organization exemption provisions of this Act.

SUBTITLE E—HOUSING ASSISTANCE

Section 571—House recedes to Senate amendment section 221. This section provides a short title for the provisions contained in this subtitle.

Section 572—House recedes to Senate amendment section 222 with modifications. This section prorates public housing assistance based upon the number of eligible recipients within a family unit.

Section 573—House section 611 recedes to Senate amendment section 223 with modifications. This provision limits any deferrals of termination decisions to a single 3-month period.

Section 574—House section 612 recedes to Senate amendment sections 224 and 325 with modifications. This provision ensures that aliens are not allowed to receive public housing assistance until their eligibility has been verified. Aliens may not begin receiving such assistance while their applications are pending.

Section 575—House section 613 recedes to section 225 of the Senate amendment. This section prohibits sanctions against entities that make erroneous determinations of eligibility for housing assistance.

Section 576—House section 614 recedes to Senate amendment section 227 with modifications. This provision establishes regulations for carrying out the sections of this subtitle.

Section 577—House section 605 recedes to Senate amendment section 201(d). This provision requires a report describing the manner in which the Secretary of Housing and Urban Development is enforcing section 214 of the Housing and Community Development Act of 1980, which prevents illegal aliens from receiving public housing assistance.

SUBTITLE F—GENERAL PROVISIONS

Section 591—House recedes to Senate amendment section 231(a). This section provides that unless otherwise specified, the provisions of this title take effect on the date of enactment.

Section 592—Senate recedes to House section 634. This section clarifies that the provisions of this title do not set forth all requirements of eligibility for public assistance, or determine when such requirements are satisfied, but only relate to the general issue of eligibility or ineligibility on the basis of alienage.

Section 593—The managers agree to include a provision clarifying that Title V does not apply to programs of foreign assistance.

Section 594—House recedes to Senate amendment section 201(a)(3) with modifications to allow either individual or public notice of changes in eligibility for benefits recipients caused by this Act.

Section 595—This section provides that, for purposes of this title, the definitions of "alien," "State," "United States," "national," "naturalization," and "child" are the same definitions as set forth in the INA.

The managers acknowledge that some of the provisions contained in this Title differ from similar provisions enacted this year as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). To the extent possible, the managers intend to reconcile these differing provisions during the next Congress to avoid confusion in the implementation of these policies.

TITLE VI—MISCELLANEOUS PROVISIONS

SUBTITLE A—REFUGEES, PAROLE, AND ASYLUM

Section 601—Senate recedes to House section 501. Subsection (a) amends the definition of refugee at section 101(a)(42) to provide that a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear of being compelled to undergo such a procedure or being subject to such persecution shall be deemed to have a well founded fear of persecution on account of political opinion.

Subsection (b) amends section 207(a) to provide that not more than 1,000 refugees shall be admitted on the basis of persecution under coercive population control policies.

Section 602—House recedes to Senate amendment section 191 with modifications. This section amends INA section 212(d)(5) to provide that the Attorney General's parole authority may be exercised only on a case-by-case basis for urgent humanitarian reasons or significant public benefit. This section also requires that not later than 90 days after the end of the fiscal year, the Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate describing the number and categories of aliens paroled into the United States under section 212(d)(5), along with other specified information.

Section 603—House recedes to Senate amendment section 192 with modifications. This section amends INA section 201(c) to provide, beginning in 1999, that aliens paroled into the United States in the second previous fiscal year who do not depart within 365 days and who have not yet become permanent resident aliens (or who, if they did become LPRs, did so under a provision of law other than 201(b) that did not count toward the worldwide level), will be counted towards the worldwide level of family-sponsored immigrants. If an alien is counted towards the worldwide level under this provision and subsequently adjusts to LPR status, the alien shall not be so counted again at the time of adjustment.

Section 604—Senate recedes to House section 511, with modifications. This section amends section 208 of the Immigration and Nationality Act to provide that an alien who is physically present in, or who arrives in, the United States may apply for asylum in accordance with section 208 or, where applicable, section 235(b)(1). However, an alien may not apply for asylum if the Attorney General determines that the alien can be returned to a safe third country pursuant to a bilateral agreement, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States. An applicant for asylum must demonstrate by clear and convincing evidence that the application has been filed within 1 year of arriving in the United States (unless the alien can demonstrate to the satisfaction of the Attorney General that extraordinary circumstances caused the delay in filing an application prior to the deadline), and an alien is not eligible to apply for asylum if the alien has previously applied for and been denied asylum; these bars do not apply if the alien demonstrates the existence of changed circumstances which materially affect the applicant's eligibility for asylum. A determination by the Attorney General that an alien is ineligible to apply for asylum is not subject to judicial review.

Subsection (b) adopts the conditions for granting asylum outlined in House section 511(a). Subsection (c) clarifies the status of an alien granted asylum. It also provides that asylum may be terminated if the alien: is no longer a refugee under section 101(a)(42); is ineligible for asylum under subsection (b); may be returned to a safe third country; has voluntarily returned to his country of nationality or last habitual residence with lawful permanent resident or equivalent status; or has acquired a new nationality which confers protection on the alien. An alien whose asylum is terminated is subject to any applicable ground of inadmissibility or deportation.

Subsection (d) provides for the establishment of procedures for considering applications for asylum. The applicant may be required to submit fingerprints and a photograph. The House provisions regarding employment authorization, application fees, legal representation, and notice of the consequences of knowingly filing a frivolous application for asylum are included, as are the House provisions on consideration of asylum applications. If the Attorney General determines that an alien has knowingly made a frivolous application for asylum and the alien has received notice, the alien shall be permanently ineligible for any benefits under the INA. Nothing in subsection (d) shall be construed to create any substantive or procedural right or benefit that is enforceable by any party against the United States.

Subsection (b) makes conforming and clerical amendments. Subsection (c) provides that the amendments made by this section shall take effect on the first day of the first month beginning more than 180 days after the date of enactment.

Section 605—Senate recedes to House section 513. This section authorizes an increase in the number of asylum officers by at least 600 in FY 1997.

Section 606—House recedes to Senate amendment section 196. This section provides for the conditional repeal of the Cuban Adjustment Act upon the establishment of democracy in Cuba.

SUBTITLE B—MISCELLANEOUS AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

Section 621—House recedes to Senate amendment section 185. This section amends INA section 214(j)(1) to double the number of "S" visas (pertaining to alien witness cooperators) that may be issued in a given fiscal year.

Section 622—House recedes to Senate amendment section 310. This section extends the period for waiver of the foreign country residence requirement for foreign medical graduates to June 1, 2002, and amends INA sections 212(e) and 214(k) to place additional conditions and restrictions on waivers requested by a United States Government or State agency. These additional restrictions are imposed, among other things, to ensure that aliens granted such waivers remain employed in positions deemed to be in the public interest.

Section 623—House section 809 recedes to Senate amendment section 175, with modifications. This section amends INA sections 245A(c)(5) and 210(b)(6)(C) to require the Attorney General to disclose information in an application for legalization to a law enforcement entity, upon written request, in connection with a criminal investigation or prosecution, or to a coroner in order to identify a deceased individual.

Section 624—House recedes to Senate amendment section 311. This section amends section 212(a)(5) to provide that in the case of certain professional athletes, a labor certification shall remain valid if the athlete is traded by his original sponsoring employer to another team in the same sport.

Section 625—House recedes to Senate amendment section 214(a), with modifications. This section amends INA section 214 to provide that an alien may not be given or validly remain in nonimmigrant status under INA section 101(a)(15)(F) if the alien is pursuing studies at a public elementary school or publicly-funded adult education program. The section also provides that an alien may not have such status at a public secondary school unless the period of such status does not exceed 12 months and the alien has paid reimbursement equal to the full unsubsidized per capita student cost. This amendment also provides that an alien who obtains an "F-1" visa to pursue studies at a private elementary or secondary school, or privately-funded language program, shall be considered to have violated the conditions of the visa if the alien terminates or abandons such studies and undertakes studies at a public school or publicly-funded adult education or language training program.

Section 626—House recedes to Senate amendment section 328. This section adds a new INA section 294 to permit the Attorney General to expend appropriated funds to pay for the transportation of the remains of any INS officer or Border Patrol agent killed in the line of duty to a place of burial in the United States, Puerto Rico, or U.S. territories or possessions, as well as other related and incidental costs.

SUBTITLE C—PROVISIONS RELATING TO VISA PROCESSING AND CONSULAR EFFICIENCY

Section 631—Senate recedes to House section 807. This section amends INA section 221(c) to provide that an immigrant visa shall be valid for a period of six months, and to provide that the period for validity of a nonimmigrant visa issued to an alien of one nationality who has been granted refugee status and been firmly resettled in another country shall be based on the treatment granted by the country of resettlement to alien refugees resettled in the U.S.

Section 632—House section 803(b) recedes to Senate amendment section 157. This section amends INA section 222 by adding a new subsection (g), providing that an alien who has remained in the U.S. beyond the authorized period of stay may not be readmitted to the United States on that nonimmigrant visa, and may only be readmitted as a nonimmigrant on the basis of a visa issued in a consular office located in the country of the alien's nationality (or, if there is no such office, at a consular office designated by the Secretary of State), or where extraordinary circumstances are found by the Secretary of State.

Section 633—House section 803(a) recedes to Senate amendment section 172. This section amends INA section 202(a)(1) to clarify that the Secretary of State has non-reviewable authority to establish procedures for the processing of immigrant visa applications and the locations where visas will be processed.

Section 634—House recedes to Senate amendment section 301, with modifications. This section amends INA sections 222(c) and (e) to make certain changes in the visa application process.

Section 635—House section 836 recedes to Senate amendment section 302. This section amends INA section 217(f) to extend the authorization for the Visa Waiver Pilot Program (VWPP) through September 30, 1997. This section also repeals current section 217(g) (regarding the probationary program), and adds a new section 217(g) to specify procedures for termination of a country's designation to participate in the VWPP. A country with a disqualification rate of between 2 and 3.5 percent shall be placed on probationary status for a period of not more than 3 years. (The disqualification rate is the percentage that the number of aliens from the country who were found inadmissible, withdrew their applications for admission, or were admitted as nonimmigrants and violated the terms of their admission in a given fiscal year, represents of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the same fiscal year.) A country with a disqualification rate of greater than 3.5 percent shall be terminated from the VWPP at the beginning of the second fiscal year after this determination is made. If a country on probationary status by the end of the designated period fails to develop a machine-readable passport program or has a disqualification rate of greater than 2 percent, the country shall be terminated from the VWPP at the beginning of the first fiscal year after such determination is made. The Attorney General and Secretary of State retain the discretion to terminate any country's designation as a participant in the VWPP, or to deny a waiver to any individual from a country which is a participant.

Section 636—House recedes to Senate amendment section 306, with modifications. This section provides that the Secretary of State may establish a fee for diversity immigrant visas to be paid by each applicant for such a visa. The fee may be set to recover the cost of administering the diversity visa program, including the cost of processing all applications for diversity visas. It is intended that this fee would be paid by all entrants into the "lottery" for eligibility for a diversity visa.

Section 637—Senate recedes to House section 841, with modifications. This section provides that certain aliens selected as diversity immigrants during FY 1995, and whose applications for adjustment of status under INA section 245 were accepted by the Attorney General, shall be selected for diversity immigrant visas in FY 1997 and given priority over other aliens selected for such visas. The number of Polish nationals notified in FY 1995 that they were eligible for a diversity immigrant visa exceeded the number of visas that were available. The purpose of this provision is to place these individuals in the same position they would have been in FY 1995 had sufficient visas been available.

SUBTITLE D—OTHER PROVISIONS

Section 641—House recedes to Senate amendment section 215, with modifications. This section requires the Attorney General, in cooperation with the Secretaries of State and Education, to collect from colleges and universities certain information regarding nonimmigrant foreign students from designated countries who are enrolled at such institutions pursuant to visas under INA section 101(a)(15) (F), (J), or (M). The information shall include the alien's identity, current address, nonimmigrant classification, academic standing, and disciplinary action, if any. Institutions shall participate as a condition of their approval for participation in exchange student visa programs, and the collection of data shall be funded by a fee charged on all visas issued under section 101(a)(15) (F), (J), or (M).

Section 642—Senate amendment section 177 recedes to House section 833, with modifications. This section provides that notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit or in any way restrict any government entity or official from sending to or receiving from the INS information regarding the immigration status of any individual in the United States.

Section 643—Senate recedes to House section 834. This section requires the Attorney General, not later than 6 months after the date of enactment, to issue regulations regarding the rights of "habitual residence" under the Compacts of Free Association between the United States and the governments of the Marshall Islands, and the Federated States of Micronesia, and between the United States and Palau.

Section 644—Senate recedes to House section 835. This section requires aliens from certain countries specified by the INS in consultation with the Secretary of State to be advised prior to or at the time of entry into the United States of the severe harm caused by female genital mutilation and the potential legal consequences in the United States of performing female genital mutilation or of allowing a child to be subjected to female genital mutilation.

Section 645—House recedes to Senate amendment section 335. This section amends chapter 7 of title 18 to add a new section 116, prohibiting the practice of female genital mutilation on any individual less than 18 years old, and setting penalties of up to 5 years imprisonment.

Section 646—Senate recedes to House section 837. This section will permit the adjustment of status of certain nationals of Poland and Hungary who were paroled into the United States between November 1, 1989, and December 31, 1991, after having been denied refugee status.

Section 647—Senate amendment section 307 recedes to House section 838. This section requires the Attorney General to make available funds up to $5,000 for demonstration projects in support of naturalization ceremonies to be conducted in fiscal years 1997 through 2001.

Section 648—Senate recedes to House section 842. This section states the sense of Congress that, to the extent practicable, all equipment and products purchased with funds authorized by this Act shall be American-made, and that recipients of grants under this Act receive notice of this statement of Congress.

Section 649—House recedes to Senate amendment section 171(b). This section amends 50 U.S.C. 191 to extend the authority of the Attorney General to direct the movement of vessels in emergencies to include situations of actual or anticipated mass migrations of aliens arriving by sea.

Section 650—House recedes to Senate amendment section 308. This section requires the Attorney General to investigate and submit a report to Congress regarding the practices of entities authorized by regulation to administer the English and civics tests to applicants for naturalization. A preliminary report shall be submitted within 90 days of enactment, and a final report shall be issued within 275 days after submission of the preliminary report.

Section 651—House recedes to Senate amendment section 309. This section provides that the United States Customs Administrative Building at the Ysleta/Zaragosa Port of Entry in El Paso shall be known as the "Timothy C. McCaghren Customs Administrative Building."

Section 652—House recedes to Senate amendment section 312. This section addresses abuses in the practices of certain international matchmaking organizations ("mail order bride businesses") by requiring such organizations, under pain of civil penalty, to

provide certain immigration information to potential recruits for immigration to the United States, and by requiring the Attorney General to conduct a study and submit a report to Congress regarding the number of mail order marriages, the extent of marriage fraud arising as a result of such marriages, the extent of domestic abuse in such marriages, and the need for expanded regulation to implement the policies of the Violence Against Women Act of 1994 in this area.

Section 653—House recedes to Senate amendment section 321. This section requires the Comptroller General to review the effectiveness of the H-2A nonimmigrant program to ensure that the program provides a workable safety valve in the event of future shortages of domestic agricultural workers. The report shall be submitted not later than December 31, 1996, or 3 months after the date of enactment, whichever is sooner.

Section 654—House recedes to Senate amendment section 333. This section requires the Commissioner of the Customs Service to initiate a study of allegations of harassment by Canadian Customs agents designed to deter cross-border commercial activity along the United States-New Brunswick border. The study shall include a review of the connection between such incidents of harassment and the imposition of the New Brunswick Provincial Sales Tax on goods purchased in the United States by New Brunswick residents. The Commissioner shall consult with State and local officials in Maine in conducting this study, and shall submit a report to Congress on results of the study within 120 days of enactment of this Act.

Section 655—House recedes to Senate amendment section 334. This section states the sense of Congress that the collection by Canadian Customs officials of a New Brunswick Provincial Sales Tax on goods purchased in the United States by residents of New Brunswick, but not on goods purchased by New Brunswick residents in other Canadian provinces, may violate the North American Free Trade Agreement (NAFTA) and that the United States Trade Representative should move without delay in seeking redress under the dispute resolution process in chapter 20 of NAFTA.

Section 656—House sections 831 and 832 recede to Senate amendment section 118, with modifications. Without placing mandates on states, this section establishes grant programs to encourage states to develop more counterfeit-resistant birth certificates and driver's licenses. After October 1, 2000, Federal agencies may only accept as proof of identity driver's licenses that conform to standards developed by the Secretary of the Treasury after consultation with state motor vehicle officials through the American Association of Motor Vehicle Administrators. Beginning 4 years after the date of enactment, Federal agencies may only accept birth certificates issued after such date that conform to standards developed by the Secretary of Health and Human Services after consultation with appropriate State officials. The managers intend that the new standards developed in consultation with state officials apply only to licenses issued or renewed after October 1, 2000, and only to birth certificates issued more than 4 years after the date of enactment.

Section 657—House recedes to Senate amendment section 332, with modifications. This section requires the Commissioner of Social Security to develop a prototype of a counterfeit-resistant social security card, and requires the Comptroller General to conduct a study and issue a report to Congress that examines different methods of improving the social security card application process.

Section 658—House recedes to Senate amendment section 314. This section will authorize the transfer of INA artifacts to the Border Patrol Museum and Memorial Library Foundation.

Section 659—Senate recedes to House section 840. This section states the sense of Congress regarding enforcement priorities of the INS.

SUBTITLE E—TECHNICAL CORRECTIONS.

Section 671—Senate recedes to House section 851, with modifications. This section makes a number of entirely technical corrections to the Immigration Reform and Control Act of 1986, the Immigration and Nationality Technical Corrections Act of 1994, the Immigration and Nationality Act, and other legislation.

OTHER PROVISIONS

The House recedes to the Senate on the following provisions: House sections 222, 300, 801.

The Senate recedes to the House on the following provisions: Senate amendment sections 120B, 120D, 120E, 305, 318.

HENRY HYDE,
LAMAR SMITH,
ELTON GALLEGLY,
BILL MCCOLLUM,
BOB GOODLATTE,
ED BRYANT,
SONNY BONO,
BILL GOODLING,
RANDY "DUKE" CUNNINGHAM,
HOWARD P. "BUCK" MCKEON,
E. CLAY SHAW, Jr.,
Managers on the Part of the House.

ORRIN HATCH,
AL SIMPSON,
CHUCK GRASSLEY,
JON KYL,
ARLEN SPECTER,
STROM THURMOND,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

MEDICAID CERTIFICATION ACT OF 1995

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1791) to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, as amended.

The Clerk read as follows:

H.R. 1791

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

SECTION 1. TECHNICAL CORRECTIONS RELATING TO PHYSICIANS' SERVICES.

(a) CORRECTING REFERENCE TO UNIQUE IDENTIFIER SYSTEM.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended, in the paragraph redesignated as paragraph (59) by section 13623(a)(6) of the Omnibus Budget Reconciliation Act of 1993 and inserted by section 4752(c)(1)(C) of the Omnibus Budget Reconciliation Act of 1990, by striking "subsection (v)" and inserting "subsection (x)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of the amendments made by section 4752(c)(1) of the Omnibus Budget Reconciliation Act of 1990.

(b) CORRECTION IN MINIMUM QUALIFICATIONS FOR BILLING FOR PHYSICIANS' SERVICES TO CHILDREN AND PREGNANT WOMEN.—

(1) IN GENERAL.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended, in the paragraph redesignated as paragraph (12) by section 13631(c)(3) of the Omnibus Budget Reconciliation Act of 1993 and inserted by section 4752(a)(2)(B) of the Omnibus Budget Reconciliation Act of 1990—

(A) in subparagraph (A)(i), by inserting "or is certified in family practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association" before the comma at the end;

(B) in subparagraph (B)(i), by inserting "or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association" before the comma at the end; and

(C) in each of subparagraphs (A) and (B)—

(i) by striking "or" at the end of clause (v),

(ii) in clause (vi), by inserting "(or certified by the State in accordance with policies of the Secretary)" after "Secretary",

(iii) by redesignating clause (vi) as clause (vii), and

(iv) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to physicians' services furnished on or after January 1, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. BILIRAKIS].

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

Mr. Speaker, I am pleased that the House is considering H.R. 1791, the Medicaid Certification Act of 1995.

This legislation makes technical corrections to title XIX of the Social Security Act relating to payments for physician serves in the Medicaid Program.

In OBRA 1990, due to an unintentional omission, Osteopathic Physicians were not included in provisions concerning Medicaid reimbursement for services provided to pregnant women and children.

The legislation before us today corrects this by adding that Medicaid may allocate funds for services to pregnant women and children when provided by physicians who are certified by the American Osteopathic Association.

This bill also clarifies that services provided in emergency departments of a participating hospital will be covered as well.

Finally, the legislation includes current HCFA practice that any physician certified by a State Medicaid plan will be allowed to participate in the Medicaid Program.

Mr. Speaker, this bill has 60 cosponsors and broad bipartisan support. I

urge my colleagues to support this legislation.

Mr. Speaker, I thank the minority members of our committee, the gentleman from California [Mr. WAXMAN] and the gentleman from Michigan [Mr. DINGELL], and, of course, the staffs on both sides for their hard work on this legislation.

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

Mr. MANTON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 1791, the Medicaid Certification Act.

Mr. Speaker, current Medicaid law establishes quality standards for physicians providing care for children and pregnant women in the Medicaid Program. When we passed that original legislation, we specified that physicians certified by the medical specialty board recognized by the American Board of Medical Specialties would meet the quality standards. But we failed to make specific mention as well of the medical specialty board recognized by the American Osteopathic Association.

This legislation corrects that oversight. Clearly it was always the view of the committee that board-certified osteopaths are high quality providers, and should not be treated any differently than board-certified allopathic physicians. This simply corrects any misunderstanding that may have been implied by our failure to mention them in the original legislation.

I want to stress that in making this change we are in no way relaxing or stepping back from the original intention of the legislation to assure that quality standards are in effect for these providers of Medicaid services to pregnant women and children.

We expect the Secretary of HHS to implement the original provision and this change to it with full attention to the basic purposes for the provision.

I urge support of the legislation.

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

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida, I mean the gentleman from Texas [Mr. BARTON], who is the chief sponsor—their loss would be our gain—the chief sponsor of this legislation. And certainly the American Osteopathic Association picked the right person to lead this legislation for them because he certainly is a doer.

Mr. BARTON of Texas. Mr. Speaker, I am sure at one time Texas was part of Florida; today, though, we are an independent State of the great 50-State Union.

Mr. Speaker, I do rise in support of H.R. 1791 as the chief sponsor in the Committee on Commerce. This legislation is required, quite frankly, because of an oversight in 1990 that both the gentleman from New York [Mr. MANTON] and the gentleman from Florida [Mr. BILIRAKIS] have already referred to. Because of a series of missteps and oversight in subsequent Congresses in 1990, we have never been able to rectify that original mistake until this point in time.

There is no opposition to this legislation. The American Medical Association supports it, the Clinton administration, the Health Care Finance Administration that implements Medicaid and oversees Medicaid supports it, the Rural Health Care Caucus supports it. It was reported by committee unanimously on a voice vote. The gentleman from Virginia, Chairman BLILEY, has been very active, as has Chairman BILIRAKIS in subcommittee. The ranking member, the gentleman from Michigan, Mr. DINGELL, and the gentleman from California, Mr. WAXMAN, have been very supportive. So there is no opposition.

This rectifies a mistake. Osteopathic physicians are board certified.

□ 1615

There are 40,000 of them in the Nation. I have the fortune of having a cousin, Dr. Neil Gibson, who is an osteopathic physician licensed under the State of Texas, educated at the North Texas Health Science Center, Fort Worth, TX, in Mr. PETE GEREN's district. He is a physician in west Texas, in a community where he is the only physician that is licensed to practice medicine. Osteopathic physicians conduct over 100 million patient consultations per year. This legislation will make it possible for them to be reimbursed when they are caring for a pregnant woman or a child under the age of 21.

This legislation is long overdue. I am sure and hope that it will pass unanimously in the House, and then we will pass it in the Senate, so that it rectifies past mistakes. I am pleased to be the chief sponsor. I want to thank again all the Members of the House on both sides of the aisle that have worked so hard in this Congress to correct a mistake, especially Chairman BILIRAKIS who has been very, very supportive.

I urge unanimous adoption of the legislation.

Mr. DINGELL. Mr. Speaker, I am pleased the House is considering today a bill to correct a legislative oversight regarding eligibility for Medicaid reimbursement of board-certified osteopathic physicians. The primary purpose of H.R. 1791 is to clarify this eligibility, which has been in question since the omnibus budget reconciliation bill was passed in 1990. At that time, purely through an oversight, board certification by the American Osteopathic Association was omitted from the amendments to the Medicaid statute. Unfortunately, because this just required a short, simple solution, it has fallen to the bottom of the in-box, so to speak, beneath other legislative business that has been viewed as more significant. In addition, since making this correction required opening the Medicaid statute, it has been a magnet for other controversial measures.

In short, Mr. Speaker, this simple but important technical correction has spent an inordinate amount of time caught in the twists and turns of the legislative labyrinth. It is time to fix this problem once and for all, and I am pleased that my colleague from Virginia, the chairman of the Commerce Committee, was willing to include the bill as one of the committee's last items of business for the year. This clarification has been sought by osteopathic physicians and supported by many Members of Congress for a number of years.

The Medicaid statute requires that physicians be certified for family practice or pediatrics by the American Board of Medical Specialties to provide care for pregnant women and children in the Medicaid Program. Except for a mistake during the drafting of that provision, it also would have included certification by a board recognized by the American Osteopathic Association. To address this oversight in part, the Health Care Financing Administration issued regulations stating that providers certified by a State Medicaid program may be reimbursed. However, those regulations are necessarily time-limited and thus do not correct the problem. Doing this permanently requires amendment of the Medicaid statute. This amendment is long overdue, and I support it.

This bill may seem a small matter, but I know it is very important to many osteopathic physicians in my home State of Michigan and across the country. It's time to correct the error in OBRA '90, and I hope we will pass this bill today and the Senate will complete the process quickly so that the legislation can be signed by the President soon.

Mr. BARCIA. Mr. Speaker, I rise in support of H.R. 1791, a bill which provides the proper respect due osteopathic physicians, who provide a great service to millions of Americans.

With most of the doctors of osteopathic medicine being involved in primary care practices, it is high time that we reinstated osteopathic physicians as an eligible group of physicians to receive Medicaid reimbursement. There are thousands of osteopathic physicians in Michigan, more than in any other State, and a significant number in my own district. When one multiplies this group by the number of patients they serve, it is very easy to see that this error in OBRA '90 is of great consequence to many of our constituents.

I have been a great supporter of osteopathic medicine for some time. In the last Congress I sponsored House Concurrent Resolution 173 calling for the certain inclusion of osteopathic medicine as a key form of care in any health care proposal. It is only right that we take care to make sure osteopathic physicians are included in our current health care arsenal while we continue to work on improvements in our health care system.

One of the great frustrations the public has with the Government is when it seems to take forever for anyone to admit a mistake has been made, and even longer to correct it. This legislation is for the benefit of the health-care seeking public. It restores previously provided treatment that we erroneously terminated, and is long overdue. It deserves the support of all of our colleagues. I urge the adoption of H.R. 1791.

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

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

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from Florida [Mr. BILIRAKIS] that the House suspend the rules and pass the bill, H.R. 1791, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BILIRAKIS. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1791, as amended.

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

There was no objection.

EXTENDING CERTAIN PROGRAMS UNDER ENERGY POLICY AND CONSERVATION ACT

Mr. SCHAEFER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4083) to extend certain programs under the Energy Policy and Conservation Act through September 30, 1997.

The Clerk read as follows:

H.R. 4083

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

SECTION 1. ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The Energy Policy and Conservation Act is amended—

(1) by amending section 166 (42 U.S.C. 6246) to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to implement this part.";

(2) in section 181 (42 U.S.C. 6251) by striking "June 30, 1996" both places it appears and inserting in lieu thereof "September 30, 1997";

(3) by adding at the end of section 256(h) (42 U.S.C. 6276(h)) "There are authorized to be appropriated for fiscal year 1997 such sums as may be necessary to carry out this part."; and

(4) in section 281 (42 U.S.C. 6285) by striking "June 30, 1996" both places it appears and inserting in lieu thereof "September 30, 1997";

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from New York [Mr. MANTON] each will control 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. SCHAEFER].

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

(Mr. SCHAEFER asked and was given permission to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, this bill reauthorizes certain provisions contained in the Energy Policy and Conservation Act for 1 fiscal year. Specifically, this bill assures that if there is an energy emergency when Congress adjourns, the President's authority to drawdown the strategic petroleum reserve and the ability of U.S. oil companies to participate in the International Energy Agreement without violating antitrust laws is preserved.

The Commerce Committee believes annual reauthorization of these provisions is appropriate as long as the reserve continues to be looked to as a budget balancing tool. For the past 2 years, I have been greatly troubled by the trend of selling oil from the strategic petroleum reserve to meet budgetary goals. When the first sale was authorized, over the objections of the Commerce Committee, we were told it would be a one time sale. Less than 1 year later a second, even larger sale was authorized. And a third sale is currently being considered.

The reserve was not intended to be used in such a manner and is not an effective tool for balancing the budget. The reserve is our first line of defense in an energy emergency. This energy security insurance policy for which we have paid over $200 billion should not be squandered carelessly to meet short-term budgetary objectives. I urge my colleagues on the Appropriations Committee as they prepare a continuing resolution to resist the temptation to use this strategic oil reserve which is so vital to our national security as a cash reserve.

Finally, I believe these provisions of EPCA are too important for us to adjourn without reauthorizing them. While an energy emergency which would require the reserve to be drawndown while we are adjourned is unlikely, it is not impossible. Consider the implications on our energy security of the recent terrorist attack in Saudi Arabia and the Iraqi aggressions into the no-fly zones. I believe this Nation must have the ability to use all its tools to deal with an energy emergency so I urge my colleagues to support this bill.

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

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

Mr. Speaker, I am pleased to be here to support H.R. 4083, which reauthorizes the Energy Policy and Conservation Act for 1 year. This bill has been handled in a bipartisan manner, and was reported from the Commerce Committee on a voice vote. I know of no objection to it from this side of the aisle.

Mr. Speaker, I support the reauthorization of EPCA because it will ensure that the United States and industry are able to fulfill their respective duties in any oil-related emergency. Recent events in the Middle East have underscored, once again, how quickly circumstances can change, and the need for the United States to be self-sufficient during periods of instability.

I want to thank Chairman BLILEY and Chairman SCHAEFER for bringing this important bill to the House floor. The Democrats on the Commerce Committee strongly support their efforts to ensure that the strategic petroleum reserve is used for its intended purpose and not, as some have attempted, sold off for deficit reduction. EPCA is important to our country's economic and energy security, and I am pleased to support this legislation.

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

Mr. SCHAEFER. Mr. Speaker, I have no further requests for time. I just want to say that I appreciate the gentleman from New York [Mr. MANTON] and also the gentleman from New Jersey [Mr. PALLONE], my ranking member, and the gentleman from Michigan [Mr. DINGELL] for moving this very, very rapidly as we tail into the end of our session, because it is very important legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado [Mr. SCHAEFER] that the House suspend the rules and pass the bill, H.R. 4083.

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. SCHAEFER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4083.

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

There was no objection.

RELATING TO EXTRADITION OF MARTIN PANG FROM BRAZIL

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 132) relating to the extradition of Martin Pang from Brazil to the United States, as amended.

The Clerk read as follows:

H. CON. RES. 132

Whereas it is alleged that Martin Pang intentionally started a warehouse fire in Seattle, Washington on January 5, 1995, that killed four firefighters;

Whereas shortly thereafter Martin Pang fled to Brazil from where he was extradited to the United States on March 1, 1996;

Whereas the extradition decision of the Supreme Court of Brazil states that Martin

Pang should stand trial in the United States only for arson and not for felony murder; and

Whereas it is accepted international practice in extradition cases for the executive authorities of the requested state to grant consent for prosecution of offenses other than those for which the fugitive was extradited: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that in the interests of justice and furthering good relations between the United States and Brazil, the Government of Brazil should grant its consent to prosecution of Martin Pang for both arson and felony murder.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

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

Mr. Speaker, House Concurrent Resolution 132 was introduced by Rep. JENNIFER DUNN and her Washington State colleagues to urge the Government of Brazil to allow Mr. Martin Pang to be extradited to the United States to stand trial for both arson and first degree murder.

Mr. Pang is accused of starting a warehouse blaze in January 1995 in Seattle that took the lives of four firefighters. Since the introduction of this resolution, Mr. Pang has been extradited to Seattle, where he awaits trial.

However, the Brazilian extradition order is written in such a way that Mr. Pang can be tried for arson and not felony murder. Of course, U.S. authorities have a strong interest in trying this man for both crimes—arson and felony murder.

We commend our State Department for working diligently for months to resolve the legal difficulties of this case. In fact, the committee consciously deferred action on this measure in the hope that diplomatic efforts might overcome this problem. That has not happened.

In close consultation with the ranking Democratic Member, Mr. HAMILTON, the committee has approved a resolution intended to encourage Brazilian authorities to redouble their efforts to formally grant its consent to prosecution of Martin Pang for both arson and felony murder.

Mr. Speaker. I commend our colleague from Washington, JENNIFER DUNN, for the initiative she has shown in introducing this resolution. We certainly hope that our Brazilian friends will accept this resolution and act in the spirit of good relations and justice.

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

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the resolution. I commend the Washington delegation for drafting a timely, bipartisan resolution on a sensitive issue in United States-Brazilian relationships. I also commend Chairman GILMAN for having his staff work with us to update the language of the resolution. The resolution provides an opportunity for the United States Congress to urge that negotiations between the United States and Brazil move forward. I urge its adoption.

Mr. GILMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Speaker, I rise today to urge passage of House Concurrent Resolution 132 relating to the extradition of Martin Pang from Brazil to the United States and to thank and praise the gentleman from New York [Mr. GILMAN] and the members of the Committee on International Relations for recognizing the importance of this case and for moving the resolution forward. For the benefit of my colleagues who have not been able to follow this horrible tragedy, I want to thank the gentleman from New York for giving a brief history earlier on the matter in the Pang case.

Let me just add that when Martin Pang set fire to that warehouse, a warehouse that belonged to his parents to Seattle, WA, that blaze ultimately took the lives of four brave firefighters.

Immediately after the blaze, Pang fled to Brazil, where he later admitted his guilt to the FBI. After serious and lengthy negotiations, he was extradited to the United States on March 1, 1996, but he was extradited under the Brazil Supreme Court stipulation that he be tried for arson only and not for murder.

This past February, as the chairman noted, I introduced the original version of today's resolution expressing the sense of Congress that Brazil should reverse its court decision and allow Pang to be tried both for arson and for murder.

We must past this resolution. Pang's pretrial hearing is set for October 8, and that is why it is so critical to do this today. We must try to persuade the Brazilian Government to amend its extraditional order prior to October 8.

They say that justice delayed is justice denied. Mr. Speaker, if we delay justice much longer, then justice literally will be denied in this case. We have waited some 20 months for justice. Now justice will only be served if Martin Pang is prosecuted to the fullest extent of the U.S. law. The four families who lost loved ones deserve what is right.

So, Mr. Speaker, I urge my fellow Members to do what is right, take a positive step toward justice.

Make no mistake; our action today will send a substantial message to the Government of Brazil in a strong bipartisan fashion. Indeed, my office has already been contacted by the Embassy with regard to this matter, so we know our message is being heard.

Mr. Speaker, justice demands that Mr. Pang be tried for the murders of the courageous men who gave their lives in the line of duty. Today this House can do what is right for the families who lost loved ones. They deserve that much.

I urge my colleagues to follow the bipartisan lead of the gentleman from New York [Mr. GILMAN] of the Committee on International Relations. Let us do what is right for the families affected by this tragedy and for the entire Northwest community by passing this resolution urging Brazil to reconsider and allowing us to try Martin Pang for both arson and murder.

Mr. DICKS. Mr. Speaker, Martin Pang stands accused of deliberately lighting the fire which led to the deaths of four Seattle firefighters. After allegedly committing this act, Pang fled to Brazil, where he was captured by Brazilian authorities.

Although the Brazilian Government has allowed the extradition of Pang on charges of arson, Brazilian law and their constitution does not allow him to be extradited on charges of murder—charges for which he can and should be tried under United States law. To charge Martin Pang with murder, a waiver must be granted from the Brazilian Government.

I would like to thank the gentlelady from Washington for introducing this legislation, which expresses to the Government of Brazil just how important this case is to the United States Congress and to the people of Washington State. I am hopeful that our efforts today, along with continued work by myself, the gentlelady, and the Justice Department, will lead to an agreement with the Brazilian Government which will allow justice to finally be done on behalf of the four firefighters and their families who were the victims of this terrible crime.

Mr. METCALF. Mr. Speaker, I thank the gentleman for yielding and ask for unanimous consent to revise and extend.

Mr. Speaker, as a cosponsor of House Concurrent Resolution 132 I rise in strong support of this legislation. I would like to thank the gentlelady from Washington State, Congresswoman DUNN, for her leadership on this issue and congratulate her on a job well done.

Mr. Speaker, as you have heard today by the previous speakers House Concurrent Resolution 132 expresses the sense of Congress that Martin Pang should stand trial for felony arson charges and first degree murder charges because of his alleged involvement in the fire on January 5, 1995, that killed four firefighters in Seattle WA. This bill should be unnecessary, because our judicial system has charged Mr. Pang with these crimes. However, the supreme court of Brazil has ruled that Mr. Pang may only be charged with felony arson.

Mr. Speaker, I submit that if this decision by the Brazilian supreme court is allowed to stand the families of the firefighters who gave their lives to protect our community will never receive the justice they deserve. The United States cannot allow another country veto power over the decisions of our judicial system.

Mr. Speaker, let me remind the House that Mr. Pang allegedly committed a crime in the United States and then fled to Brazil and was returned to this country for trial. The involvement of the Brazilian Government in any aspect of this case beside ensuring the safe passage of Mr. Pang to the United States is misplaced at best. The United States as a sovereign nation must maintain the ability to prosecute those persons who are accused of crime without interference from a foreign country.

Mr. Speaker, we have typically enjoyed favorable relations with the country of Brazil and we will continue to work toward that goal. But they must drop demands that infringe on our judicial system and U.S. sovereignty.

Mr. Speaker, this legislation has the support of the local prosecution team, the local government, the Attorney General of the United States, the State Department, and the White House. Mr. Speaker, it is essential that justice be served. I urge passage of this bill and yield back the balance of my time.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 132, as amended.

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

The title of the concurrent resolution was amended so as to read: "Concurrent resolution relating to the trial of Martin Pang for arson and felony murder.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of H. Con. Res. 132, the measure just considered.

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

There was no objection.

REGARDING TAIWAN'S EFFORTS TO JOIN THE COMMUNITY OF NATIONS

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 212) endorsing the adoption by the European Parliament of a resolution supporting the Republic of China on Taiwan's efforts at joining the community of nations, as amended.

The Clerk read as follows:

H. CON. RES. 212

Resolved by the House of Representatives (the Senate concurring), That the Congress endorses the adoption by the European Parliament on July 18, 1996, of resolution supporting the Republic of China on Taiwan's efforts at joining the community of nations, which is substantially as follows:

"The European Parliament,

—having regard to Article J.7 of the Treaty on European Union,

"(A) satisfied with the current state of Taiwan's democracy and Taiwan's respect for the principles of justice, human rights and fundamental freedom;

"(B) welcoming the fact that the elections in Taiwan were conducted democratically and peacefully despite the overt aggression and provocation by the People's Republic of China;

"(C) having regard to Taiwan's wish to participate in international aid to developing countries;

"(D) having regard to the significance of developments in the political situation in Taiwan for the whole of East Asia at a geopolitical and economic level and in terms of a policy of stability, security and peace in the Western Pacific region;

"(E) welcoming the attitude of reconciliation displayed by President Lee Tang-hui towards the People's Republic of China and looking forward to a dialogue spanning both sides of the Taiwan Straits;

"(F) convinced that the people of Taiwan ought to be better represented in international organizations than they are at present, which would benefit both Taiwan and the whole of the international community;

"(G) whereas neither the European Union nor any of its Member States have diplomatic relations with the Government of Taiwan, recognizing only the People's Republic of China;

"(H) whereas Taiwan is very important to the European Union and its Member States as a trade partner;

"(I) whereas it is important for the European Union and its Member States to develop their relations with the governments of both the People's Republic of China and Taiwan in an amicable and constructive spirit.

"(J) urging the governments of the People's Republic of China and Taiwan to intensify their cooperation;

"(K) stressing that participation by Taiwan in certain international organizations can assist with finding common ground between China and Taiwan and facilitate reconciliation between the two sides;

"(L) regretting the fact that Taiwan at present is prevented from making a full contribution to the United Nations and its agencies, and stressing that, for the efficiency of the United Nations, Taiwan's participation would be desirable and valuable;

"1. Urges:

"(a) the Council and Member States to support Taiwan's attempts to secure better representation than it currently enjoys in international organizations in the fields of human and labour rights, economic affairs, the environment and development cooperation . . .

"(b) the Council and Member States to ask the United Nations to investigate the possibility of setting up a United Nations working group to study the scope for Taiwan to participate in the activities of bodies answerable to the United Nations General Assembly;

"(c) the Council and Member States to encourage the governments of the People's Republic of China and Taiwan to intensify their cooperation in a constructive and peaceful spirit;

"(d) the Council to urge the Commission to adopt measures with a view to opening a European Union information office in Taipei;

"(2) Instructs its President to forward this resolution to the Council and to the Commission.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

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

Mr. Speaker, I want to thank the chairman of the Asia and Pacific Subcommittee, Congressman BEREUTER, and the ranking minority member, Congressman BERMAN, for their support for House Concurrent Resolution 212. I would also like to commend the chairman of the Rules Committee, Mr. SOLOMAN, for drafting the resolution.

On July 18, the European Parliament adopted a resolution that supports Taiwan's efforts at joining the United Nations. House Concurrent Resolution 212 endorses the European Parliament's initiative.

Taiwan is a free democracy, where people can express their thoughts and practice their religious beliefs. Through the long years, it has remained a loyal friend and steadfast ally of the United States.

Taiwan is also one of Asia's economic miracles, featuring a strong and growing economy with less than 1 percent unemployment. It is the type of free and democratic society we need to support in the region and around the world.

It is a stark contrast to the People's Republic of China. The Beijing leadership has repeatedly shown itself over the years to be a brutal dictatorship with little regard for human and religious rights, much less political freedom.

Taiwan's government has repeatedly asked for our help in their quest for their people to have the last word in their own future.

Now it the time to help our friends on Taiwan. We have been waiting far too long to respond to their aspirations and hope.

House Concurrent Resolution 212 is a good step in that direction. I urge my colleagues to support the resolution.

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

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

Mr. Speaker, I support the resolution, but I do have some concerns about it. I do view the resolution as a friendly gesture to Taiwan, and certainly Taiwan deserves to be recognized for the remarkable strides it has made in recent years in transforming itself from an authoritarian system with a decrepit economy into a vibrant and prosperous democracy. I want to simply remind my colleagues that Taiwan has flourished under the status quo in East Asia. I would urge my colleagues to proceed with caution on this

measure, on any measure that calls for a change in that status quo.

Having expressed that reservation, Mr. Speaker, I do support the resolution.

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

□ 1630

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules and the author of this resolution.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding this time to me, and certainly the ranking member of the committee a committee I spent many, many years on, and we have great admiration and respect for the job that both of these gentlemen do.

Mr. Speaker, this resolution is a small but significant show of support for one of the great success stories of the late 20th century, and one of the best friends America has: the Republic of China on Taiwan.

My resolution today simply endorses a European Parliament resolution passed on July 24th that urges support for greater participation in international organizations for Taiwan.

The resolution makes note of the great strides Taiwan has made toward democracy in recent years, especially its conduct of free presidential elections this past spring despite overt aggression by Communist China.

The resolution also notes Taiwan's importance as a trading partner, its willingness to participate in international aid and its strong desire to participate in the international community.

Mr. Speaker, this resolution is the very least we can do for our friends on Taiwan.

Indeed I can think of no other country that so richly deserves the opportunity to participate more in the international community.

And I would submit that the United States has a special moral obligation to help Taiwan achieve these ends.

As my colleagues know, back during the cold war, we really did not have a more steadfast ally in our struggle against Communism than the Republic of China on Taiwan.

They were integral in stopping the spread of that deadly system in Asia and for that we owe them a debt of gratitude.

Today the cold war is over and our relationship with Taiwan has developed along newer lines as that country has continued to mature and succeed.

For instance, we all are familiar with the great economic success story of this island nation.

A widely impoverished land just 45 years ago, Taiwan has vaulted to being the 19th largest economy in the world and has become the eighth largest trading partner of the United States.

With an economy characterized by low inflation, low unemployment, and a $12,000 per-capita GNP, Taiwan is nearly on par economically with countries such as Spain and Ireland.

A country on this level deserves greater access to and can contribute much to international economic organizations like the WTO.

And on the political front, this year's Presidential elections have rounded out a democratic transformation, and today Taiwan is marked by free elections, a free press, and respect for human rights and civil liberties.

In so doing, Taiwan has provided an excellent model for the rest of Asia and has proven itself worthy of participation in international political organizations.

That is why this resolution is necessary and why I have been pushing along these lines for several years now.

I am grateful for the support that I received in this endeavor to the chairman of the International Relations Committee, Mr. GILMAN, as well as to the many friends of Taiwan, too many to name, on both sides of the aisle.

This is truly a bipartisan measure, and I urge its unanimous adoption.

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

Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for his strong supportive arguments. He has been a long-time supporter of Taiwan. We appreciate his participation.

Mr. TOWNS. Mr. Speaker, I want to voice my support for the measure before us today which endorses the European Parliament's support of Taiwan's efforts to join the Community of Nations.

Taiwan has demonstrated its commitment to democracy and its respect for the principles of justice, human rights, and fundamental freedoms. We should commend the Government and people of Taiwan for conducting democratic and peaceful elections in spite of the overt aggression displayed by the People's Republic of China. I join my colleagues from the International Relations Committee in voicing support for Taiwan's efforts to obtain better representation in international organizations, including those bodies answerable to the U.N. General Assembly.

I am hopeful that this resolution will signal important support for Taiwan's inclusion in the Community of Nations, including membership in international organizations.

Mr. DEUTSCH. Mr. Speaker, I rise in strong support of House Concurrent Resolution 212, a long overdue resolution endorsing Taiwan's entry into the United Nations. Entry into the United Nations is based on certain fundamental principles: peace, democracy, and a willingness to join the international family of nations. Over the past several years, Taiwan has clearly shown that it has satisfied these requirements. First, Taiwan recently conducted a democratically held Presidential election—even in the face of overt military aggression and provocation from Mainland China. Second, Taiwan has repeatedly offered to make significant contributions in international aid to developing countries. Finally, Taiwan continues to provide economic and political stability to the Western Pacific region, one of the most strategic areas in the world.

The only thing preventing Taiwan's entry into the United Nations, is the bullying of the authoritarian Chinese regime. It is unconscionable to believe that an undemocratic and repressive nation such as China, the true antithesis of what the United Nations was founded upon, should have the ability to prevent an emerging democracy from joining the community of nations. I urge my colleagues to end this tragic situation and grant Taiwan entry into the United Nations. Pass House Concurrent Resolution 212 as the first step in this process.

Mr. HINCHEY, Mr. Speaker, with the approach of Taiwan's National Day, the 85th anniversary of the Republic of China on October 10, 1996, we have a chance to celebrate and applaud Taiwan's spectacular accomplishments during its past 85 years. The Republic of China proudly stands as a model democracy and a major economic power in the world. A great debt is owed its leaders, most notably President Lee Teng-hui. These leaders have created a modern nation out of modest beginnings, and provided other developing nations around the world with an example of the benefits of dynamic economic development and the importance of a commitment to freedom and democracy.

To President Lee Teng-hui, Vice President Lien Chan, and Representative Jason Hu of the Republic of China on Taiwan, we send our congratulations and wish them good luck in everything they do, including their campaign to return to the United Nations and other international organizations.

Mr. UNDERWOOD. Mr. Speaker, I rise today in support of House Concurrent Resolution 212, a concurrent resolution expressing this body's support of Taiwan's efforts at joining the community of nations.

Since the inception of the United States one-China policy, the United States has effectively severed all formal ties with Taiwan. By doing so, we have denied the existence and legitimacy to the Taiwanese Government and its 21 million citizens. This we have done despite the fact that Taiwan is one of the world's strongest economies, our sixth largest trading partner, and one of our closest Asian associates.

The recent elections conducted peacefully amid overt aggression and provocation from the People's Republic of China, attests to the Taiwanese Government's stability and commitment. Let us make a commitment to grant the government and people of Taiwan dignity and well-deserved opportunity to become viable participants in world affairs. I urge my colleagues to support House Concurrent Resolution 212.

Mr. PALLONE. Mr. Speaker, I wish to send my greetings and congratulations to the leaders of Taiwan on the anniversary of their national day. This October 10 marks the 85th anniversary of the founding of our close friend and fellow democracy, the Republic of China. In commemorating this anniversary, I applaud today's passage of House Concurrent Resolution 212, regarding Taiwan's efforts to join the community of nations.

Throughout the past 85 years, the United States has had a strong reciprocal friendship with the Republic of China. When Taiwan needed some help with agricultural projects, U.S. Agency for International Development [USAID] stepped in and gave them access to the resources that the farmers needed. Now Taiwan is returning our favor to countries in Africa, helping them to develop better grains and more robust crops. When Taiwan needed help developing manufacturing facilities on the island, United States business provided the support. Now Taiwan companies are helping out here in the United States by working with our manufacturers to develop joint venture projects in America.

The United States is very familiar with the economic advances the Republic of China has made, but many Americans may not be aware of the work the Republic of China has done to transform itself into a true democracy. During the past decade Taiwan has developed a robust multiparty system, open legislative elections, free speech, free press, and judicial oversight. These democratic reforms culminated in an open Presidential election. President Lee Teng-Hui was elected in a contest against three other candidates and more than 74 percent voter participation.

Despite the Republic of China's political and economic maturity, the Republic of China is still not allowed to be a part of vital international organizations. Congress took the first step today in bringing about a change in this policy.

Without question their economic status and legal system more than qualify them for membership in the World Trade Organization, but the People's Republic of China, which is not nearly as economically stable as the Republic of China, believes it must be admitted first. The 21 million people of Taiwan certainly deserve representation in the United Nations, but again, the People's Republic of China will not allow it. Given America's close relationship with the People's Republic of China, it would appear as though our friendship with Taiwan has been displaced by our concern about the People's Republic of China.

Mr. Speaker, Congress has begun to take action and today addressed the issue of Taiwan's involvement in the international community with the passage of House Concurrent Resolution 212. This resolution "urges the Council and Member States to support Taiwan's attempts to secure better representation than it currently enjoys in international organizations * * *" and "* * * ask the United Nations to investigate the possibility of setting up a United Nations working group to study the scope for Taiwan to participate in the activities of bodies answerable to the United Nations General Assembly * * *."

At the same token, I understand the need to be aware of the actions and decisions of the People's Republic of China. Obviously the 1.5 billion people living under People's Republic of China rule are important. However, I think it is vital that the United States work to see our friends in the Republic of China are duly recognized for their achievements and to make sure that Republic of China's borders are secure. On October 10, when the Republic of China celebrates their 85th anniversary, we here in Congress should remember to congratulate our friends on Taiwan and assure them that our relationship will remain strong. House Concurrent Resolution 212 is one step in the right direction, but more needs to be done.

The October 10 celebration marks the continuance of a longstanding friendship between our two countries, as well as the founding of a nation. Again, I congratulate Taiwan on the occasion of its national day.

Mr. TOWNS. Mr. Speaker, I would like to call attention to the 85th national day of the founding of the Republic of China. Not only for its rapid implementation of democratic policies and reforms but also for its responsiveness to trade imbalances between our two countries should the Republic of China on Taiwan be honored and congratulated on this historic occasion.

One proper way to celebrate the Republic of China's national day is for us to recognize Taiwan's campaign to reenter the United Nations and other international organizations. There really is no reason to deny the Republic of China membership in the United Nations. In my mind, Taiwan's membership in the United Nations is in total conformity with the U.N. principle of universality; will definitely contribute to peace and stability in East Asia and will serve the interests of the United States. Today, we have taken a small step in advancing this campaign by the House adopting House Concurrent Resolution 212, which supports Taiwan's entry into international organizations.

In commemoration of Taiwan's 85th national day, I extend greetings and best wishes to President Lee Teng-Hui, foreign representative, Ambassador Jason Hu. May Taiwan continue to prosper and to one day soon be welcomed back into the community of nations.

Mr. GILMAN. Mr. Speaker, I do not have any further requests for time on this measure, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 212, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the measure just considered.

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

There was no objection.

REGARDING PERSECUTION OF CHRISTIANS WORLDWIDE

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 515) expressing the sense of the House of Representatives with respect to the persecution of Christians worldwide, as amended.

The Clerk read as follows:

H. RES. 515

Whereas oppression and persecution of religious believers around the world has emerged as one of the most compelling human rights issues of the day, in particular the worldwide persecution and martyrdom of Christians persists at alarming levels, and this is an affront to the international moral community and to all people of conscience;

Whereas in many places throughout the world, Christians are restricted in or forbidden from practicing their faith, victimized by a "religious apartheid" that subjects them to inhumane humiliating treatment, and are imprisoned, tortured, enslaved, and killed;

Whereas in some countries proselytizing is forbidden and extremist elements persist unchecked by governments in their campaigns to eradicate Christians and force conversions through intimidation, rape, and forced marriage;

Whereas in several Islamic countries conversion to Christianity from Islam is a crime punishable by death and on Islamic court in Kuwait has denied religious liberty to a convert from Islam to Christianity;

Whereas the militant Muslim Government of Sudan is waging what its leader has described as a jihad (religious war) against Christian and other non-Muslim citizens in the southern part of the country, enforcing Shari'a (Islamic law) against non-Muslim African Sudanese, torturing, starving, killing, and displacing over 1,000,000 people, and enslaving tens of thousands of women and children;

Whereas today in Sudan a human being can be bought for as little as $15;

Whereas Christians in China are now experiencing the worst persecution since the 1970's;

Whereas there are more documented cases of Christians in prison or in some form of detention in China than in any other country;

Whereas both Evangelical Protestant house church groups and Roman Catholics have been targeted and named "a principal threat to political stability" by the Central Committee of the Communist Party of China;

Whereas in recent months, in separate incidents, 3 Chinese Christian leaders were beaten to death by Chinese authorities simply because of their religious activities;

Whereas 3 Christian leaders in Iran were kidnapped and murdered during 1994 as part of a crackdown on the Iranian Christian community;

Whereas severe persecution of Christians is also occurring in North Korea, Cuba, Vietnam, Indonesia (including East Timor), and in certain countries in the Middle East, to name only a few;

Whereas religious liberty is a universal right explicitly recognized in numerous international agreements, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas Pope John Paul II recently sounded a call against regimes that "practice discrimination against Jews, Christians, and

other religious groups, going even so far as to refuse them the right to meet in private for prayer", declaring that "this is an intolerable and unjustifiable violation, not only of all the norms of current international law, but of the most fundamental human freedom, that of practicing one's faith openly", stating that this is for human beings "their reason for living";

Whereas the National Association of Evangelicals in January 1996 issued a Statement of Conscience and Call to Action, subsequently commended or endorsed by the Southern Baptist Convention, the Executive Council of the Episcopal Church, and the General Assembly of the Presbyterian Church, United States of America, in which they pledged to end their "silence in the face of the suffering of all those persecuted for their religious faith" and "to do what is in our power to the end that the Government of the United States will take appropriate action to combat the intolerable religious persecution now victimizing fellow believers and those of other faiths";

Whereas the World Evangelical Fellowship has declared September 29, 1996, and the last Sunday in September each year thereafter, as an international day of prayer on behalf of persecuted Christians, and that day will be observed by numerous churches and human rights groups around the world;

Whereas the United States of America since its founding has been a harbor of refuge and freedom to worship for believers from John Winthrop to Roger Williams to William Penn and a haven for the oppressed, and has guaranteed freedom of worship in this country for people of all faiths;

Whereas historically the United States has in many instances failed to intervene successfully to stop anti-Christian and other religious persecution; and

Whereas in the past the United States has forcefully taken up the cause of other persecuted religious believers and the United States should continue to intervene on behalf of persecuted Christians throughout the world: Now, therefore, be it

Resolved, That the House of Representatives—

(1) reaffirms its commitment to the Nation's historic devotion to the principles of religious liberty;

(2) unequivocally condemns the egregious human rights abuses and denials of religious liberty to Christians and other persecuted religions around the world and calls upon the responsible regimes to cease such abuses;

(3) strongly recommends that the President expand and invigorate United States international advocacy on behalf of persecuted Christians and other persecuted religions and initiate a thorough examination of all United States policies that affect persecuted Christians;

(4) encourages the President to take organizational steps to strengthen United States policies to combat religious persecution, including the creation of a special advisory committee for religious liberty abroad which has an appropriate mandate and adequate staff or to consider the appointment of a White House special advisor on religious persecution; and

(5) applauds the actions of the World Evangelical Fellowship in declaring an annual international day of prayer on behalf of persecuted Christians.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Illinois [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

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

Mr. Speaker, House Resolution 515 concerns a worldwide human rights problem of intolerance which affects all of us regardless of our religious persuasion. It is a sad and astonishing commentary on our time that we need to consider such a resolution in this day and age.

Yet it remains an incontrovertible fact that the persecution of Christians around the world for circumstances arising from their faith is on the increase. While the reasons that underlie this increase in bigotry, zealotry, and intolerance are many, the basic fact is that thousands of men, women and children suffer because of the dictates of their conscience.

Intolerance aimed at one religion is an attack upon all religious freedom and all religions. It undermines a basic precept of our civilization that the individual is free to decide for himself how he wishes to worship, and that such a decision should be beyond the hand of governments or other individuals to react against.

As this House has done countless times to protest abuses aimed at other sects and faiths, we need to address the campaign now underway in several countries to deny Christians their fundamental human rights. Religious freedom is not some manifestation of a western cultural bias—it is a universal human right. There is no justification for religious persecution, whether the target is Jews, Christians, Muslims, Buddhists, or those of other faiths. Religious freedom is indivisible and must apply equally to all faiths, or no single faith can ever be safe from the scourge of intolerance.

I commend the gentleman from Virginia [Mr. WOLF] and the other sponsors of this resolution for bringing this matter before the House. Mr. SMITH, the distinguished chairman of our Subcommittee on International Operations and Human rights, is also a principal sponsor of this measure and one member who always strives to keep the issue of religious freedom alive before us. I urge all members of the House to join in passing this measure today. Please vote for House Resolution 515.

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

Mr. Speaker, I rise in support of this resolution. I want to commend the sponsor, the gentleman from Virginia [Mr. WOLF] for drafting the resolution to bring attention to this very serious international problem. I also want to commend the gentleman from California [Mr. LANTOS] for working to make it a bipartisan resolution and for broadening the resolution to condemn persecution of all religious groups. I share my colleague's opposition to religious persecution practices by any individual or any government. I want the United States to use all of its influence and leverage to halt such persecution.

Mr. Speaker, this resolution provides yet another opportunity for Congress to show its support for efforts to end all forms of religious persecution. I urge its adoption.

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

Mr. HAMILTON. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. WOLF], the major sponsor of this measure.

Mr. WOLF. Mr. Speaker, as lead sponsor of this resolution, I rise in strong support of House Resolution 515, a resolution condemning the persecution of Christians around the world. First, I want to thank Representative BILL GILMAN, chairman of the House International Relations Committee and Representatives CHRIS SMITH and TOM LANTOS, chairman and ranking member respectively of the Subcommittees on International Operations and Human Rights, for their support of the resolution and their help in getting this measure through committee in such a short time. I commend the House leadership for bringing this timely resolution to the floor this week.

I also want to thank Michael Horowitz of the Hudson Institute and Nina Shea of the Puebla Program of Freedom House for their leadership on this issue. Michael and Nina have worked tirelessly in the past year sensitizing the American Christian community about Christian persecution and encouraging action. I appreciate their hard work and their commitment to this compelling issue, which has been an important one for me for some time.

Mr. Speaker, religious persecution did not disappear with the cold war. It is very much alive today. In many countries around the world, people of faith are forced to endure severe persecution because they choose to worship Jesus Christ or adhere to the teachings of the Buddha dharma or practice the teachings of the Baha'u'lla (as in the case of the Bahai's) or otherwise practice their faith. In Bosnia, thousands of innocent men, women and children were slaughtered simply because they were Muslim. In Russia and some of the former Soviet republics, anti-Semitism persists.

This resolution focuses on persecution of Christians. First, it condemns persecution of Christians and the calls upon responsible regimes to cease such abuses. Second, it recommends that the President expand and invigorate international advocacy efforts on behalf of persecuted Christians. Third, it encourages the President to appoint a special advisor or advisory commission to recommend ways to modify U.S. policy to better address this problem. And fourth, it applauds the World Evangelical Fellowship for declaring an

international day of prayer for persecuted Christians. The Senate unanimously passed a similar resolution on Tuesday, September 17.

House Resolution 515 is the first resolution in recent memory to focus specifically on Christian persecution. It focuses on Christians not because persecution of Christians is any more abominable than persecution of Jews or Bahai's or Buddhists. Persecuting a person because of his or her religious affiliation or beliefs is abominable anytime it occurs and should always be condemned by the international community. This resolution focuses on persecution of Christians to bring attention to a problem that is increasing in its regularity, its ferocity and its scope. One scholar has said that in the 20th century, more Christians have been killed for being Christian than in any of the previous 19 centuries combined.

We do not know the names of all today's Christian martyrs, but we do know what happens to them: Imprisonment and torture for attending Christian worship services or Bible studies; criminal prosecution, harassment and torture of believers for failing to register with government-sanctioned "religious associations" run by atheists who are hostile to religious practice; systematic beatings of children who attend Christian schools; unpunished looting and burning of Christian churches, businesses and homes; prosecution and sometimes extrajudicial murder for charges brought under broadly construed "blasphemy laws"—laws designed to punish people for saying something negative against the prophet Mohammed; imprisonment for possession of Bibles; and prosecution, torture, and murder of Christian converts.

In Sudan, a country I have visited three times, women and children from Southern Sudan (who are mostly Christian or practice a traditional African religion) are literally sold into slavery. Some for as little as $15. The authoritarian Government of Sudan, while fighting for land and power, has declared a jihad against the people of the South. Reports of forced Islamization are prevalent.

Human rights groups and humanitarian organizations have been reporting for several years that humanitarian assistance, including food and medicine, is often withheld from families that refuse to convert to Islam. Freedom House reports that Christian boys are sent to the front lines as cannon fodder. Entire villages have been relocated into so-called peace camps—squalid desert communities where food and water are scarce or nonexistent.

U.N. Special Rapporteur Gasper Biro reported that in May 1995, soldiers in uniform executed 12 men, women, and children for refusing to convert to Islam. Christian leaders, including clergy, have been assassinated, imprisoned, tortured, and flogged for their faith.

Christians in many other countries also practice their faith in danger. Earlier this year, the Subcommittee on International Organizations and Human Rights, chaired by Representative CHRIS SMITH, held a hearing on anti-Christian persecution where witnesses testified about persecution in North Korea, Pakistan, China, Vietnam, Mexico, and other places. We have heard reports of persecution of Assyrian Christians in Turkey and evangelical Christians in the Oromo region of Ethiopia. Human rights groups such as Human Rights Watch, Amnesty International, the Puebla Program of Freedom House, Christian Solidarity International, Open Doors, International Christian Concern, and others continue to document case after case of Christian persecution around the world.

But the best human rights reporting in the West only scratches the surface. Thousands of voiceless, nameless victims suffer alone. Families scared for their lives cannot share their pain with the world.

Mr. Speaker, these kinds of abuses must not escape notice by the American people, the Congress, or the administration if we are a Nation devoted to the principles of freedom and dedicated to preservation of human rights here and abroad. We cannot ignore suffering if we are a Nation of compassion.

Until recently, the American Christian community has been relatively silent on this growing problem. There are many Americans who do not know or understand the suffering which their fellow believers are forced to endure in countries that do not share our belief in liberty and the self-evident truth that all men are created equal.

But the American Christian community has begun to educate itself and call for action. This Sunday, worshipers in over one hundred thousand churches around the world will be observing the International Day of Prayer for Persecuted Christians, a day for Christians to pray for the persecuted and pledge themselves to action.

In January, the National Association of Evangelicals (NAE) issued a Statement of Conscience and Call to Action pledging to end their "silence in the face of the suffering of all those persecuted for their religious faith" and "to do what is in our power to the end that the Government of the United States will take appropriate action to combat the intolerable religious persecution." The statement of conscience was subsequently endorsed by the Executive Council of the Episcopal Church, the Southern Baptist Convention and the Presbyterian Church, United States of America.

Pope John Paul II recently sounded a call against regimes that "practice discrimination against Jews, Christians and other religious groups" declaring that "this is an intolerable and unjustifiable violation not only of international law, but of the most fundamental human freedom, that of practicing one's faith openly." The U.S. Catholic Conference has decried the low priority religious freedom generally receives in U.S. human rights policy and commended efforts to "give greater visibility to our government's defense of religious liberty wherever it is denied."

Christian leaders such as Don Argue, president of the National Association of Evangelicals; Richard Land, president of the Southern Baptist Convention; Chuck Colson, resident of Prison Fellowship; Ravi Zacharias, president of Ravi Zacharias International Ministries; and a wide range of interdenominational leaders and scholars have urged greater attention to this problem.

So, I urge you to support House Resolution 515. It's not about party; it's not about politics. It's about religious liberty and justice. It's about Mehdi Dibaj, martyred in Iran in 1994. It's about Bishop Su, a 64-year-old Catholic bishop imprisoned in China earlier this year, beaten with a wooden board until it broke in splinters, suspended upside down while being beaten, who has permanently lost his hearing due to repeated blows. It's about 15-year-old Salamat Masih, a young boy forced to give up his life in Pakistan after being accused of blaspheming Mohammed. And it's about To Ding Trung, a Vietnamese Christian evangelist serving time in Quang Ngai prison for "abusing his freedom as a citizen by propagating religion illegally."

We are a great Nation and we are compassionate people. Vote "yes" on House Resolution 515.

□ 1645

In closing, Mr. Speaker, I urge support for the resolution. It is not about a party, it is not about politics, it is about religious liberty and justice. It is regarding and about those who have been persecuted for their faith.

This Congress, during the 1980's and 1970's, stood with those persecuted from different religious beliefs. I believe that this is one of the finest hours, that we stand for those who are being persecuted for their Christian faith, and want to again thank the chairman, the gentleman from New York [Mr. GILMAN], for his efforts, the gentleman from New Jersey [Mr. SMITH] for his efforts, the gentleman from California [Mr. LANTOS] for his efforts, and the House leadership on both sides of the aisle for moving this important bill.

Mr. HAMILTON. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON] and thank the gentleman from New York [Mr. GILMAN], the gentleman

from California [Mr. LANTOS], and the gentleman from Virginia [Mr. WOLF].

Mr. Speaker, today I enjoy a privilege that can only be dreamed of by millions around the world. That privilege is freedom: My freedom to express myself as I choose. My freedom to openly believe in God and to serve Him according to the dictates of my faith.

Yet it is a tragic reality that millions around the world are denied this fundamental right. The United States has rightly affirmed the U.N. Declaration of 1981 stating that "Discrimination between human beings on grounds of religion or belief constitutes an affront to human dignity * * * and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights." We have justly condemned human rights abuses against Tibetan Buddhists, Bosnian Muslims, Soviet Jews, and others.

Yet there are many, many more whose cries we must also hear. For too long, we have shut them out, perhaps because of ignorance. We can do so no longer. These are the cries of millions of Christians in countries across the world who are harassed, tortured, raped, imprisoned, or even executed for exercising the freedoms we in America so easily enjoy.

In Vietnam, China, Egypt, Iran, and other countries, government forces have jailed and often brutally tortured pastors, priests, or converts to Christianity. Some have been beaten or tortured to death.

In the Sudan, government forces kidnap children from Christian communities and sell them as slaves and concubines. In China, Laos, and Cuba churches have been shut down or destroyed.

In Saudi Arabia, the Sudan, and other countries, conversion from Islam to Christianity is punishable by death. In Pakistan, a terrible blasphemy law carries the death penalty for any statement against the prophet Muhammed.

Mr. Speaker, it is unjust for us to ignore the suffering of these millions when it lies within our power to respond in some measure. It is my honor today to join my colleagues from both parties in cosponsoring House Resolution 515, introduced by Representative WOLF. This resolution reaffirms our historic commitment to religious freedom, recommends appropriate measures on the part of our government and applauds the designation of an annual international day for prayer for these brothers and sisters. This Sunday, September 29, I plan to exercise my own precious freedom to join in prayer for them with churches and citizens across America and in 117 other countries.

Mr. Speaker, religious freedom is not the privilege of one group. It is a universal right, and when the right of one is trampled, the rights of others follow. May we, today, not be condemned by these famous, haunting words of a Lutheran pastor in Nazi Germany, which now hang on the walls of the U.S. Holocaust Museum:

> * * * they came first for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew * * * Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up.

Mr. GILMAN. Mr. Speaker, I want to thank the gentleman for his eloquent words.

Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from California [Mr. CAMPBELL], a member of our committee.

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

Mr. Speaker, today, we enact the resolution; we do not enact the "whereas" clauses. That is an important distinction that I wish to put on the record. I do not ask any of my brothers and sisters in this House of Representatives to vote no, because the resolution itself in my view is perfectly appropriate, but several of the "whereas" clauses, it seems to me, unnecessarily bring us to the edge of possibly saying things with regard to the religion of Islam that would not be constructive, and also with regard to the conditions in China.

I draw particular attention to the "whereas" clause on page 2 of the committee print: "Whereas, in several Islamic countries conversion to Christianity from Islam is a crime punishable by death."

This, I do not think is a helpful statement. I do not think it is helpful to criticize a part of a religion in a book regarding a punishment for giving up the faith, and I note that in the Judeo-Christian religions, as well, to the followers of Christian and Jewish of the Old Testament, the prohibition for blasphemy is stoning, in the book of Deuteronomy.

I am concerned as well in the "whereas" clauses regarding the militant Government of the Sudan as waging a "Jihad." Surely our cause today and the cause of good feeling and human rights, including religious rights, would be advanced by not using the phrase "Jihad" so readily. It has, I think, a very powerful and potentially misleading application in this context.

As I understand the Quran, "Jihad" means struggle, but certainly in the popular sense in the United States today it would mean a war commanded by, as a matter of faith, and/or as part of Islamic religion. I think that is a great danger to use such a phrase regarding the situation in the Sudan.

Surely we could have accomplished just as much by saying that we condemn the large-scale human rights abuses, killings, and slavery in the Sudan, some of which are done for religious purposes, without using the extremely dangerous and I think inflammatory phrase "Jihad (religions war)."

We have also a "whereas" clause that "Whereas an Islamic court in Kuwait has denied religious liberty to a convert to Islam from Christianity * * *." If it is a religious court, surely that is a matter for the religion in question. If the death penalty was applied, then that is a matter of human rights, but there is no allegation that it was applied; once more, a possible confusion of what is written in a book of ancient antiquity and what is actual practice.

Lastly, in reference to China, I think it would have been more profitable not to condemn China wholesale, but rather the specific instances at issue of discrimination and human rights abuses.

So, in conclusion, Mr. Speaker, I thank the gentleman for giving me the opportunity to speak in what I hope is a moderating tone, to insist that we are fair and do not add to the flames of difficulty in passing this resolution, but not in endorsing all of the "whereas" clauses.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from New Jersey [Mr. SMITH], the distinguished chairman of the Subcommittee on International Operations and Human Rights of the Committee on International Relations, who has been a long time and continuing advocate of this measure.

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend, the gentleman from New York [Mr. GILMAN], for yielding time to me.

Mr. Speaker, I rise in strong support of House Resolution 515, offered by my good friend and colleague, the gentleman from Virginia [Mr. WOLF], who has been a tireless ally in defending the helpless, the imprisoned, the enslaved, and the persecuted, particularly persecuted Christians. I want to commend my colleague for authoring this legislation and recognizing the modern-day travesty of religious intolerance, imprisonment, and increasingly, the growing numbers of people who are martyrs.

In recent years, Pakistani Christian Javid Mashi was martyred; Iranian Christians, including Bishop Haik, have been killed and martyred by those regimes; Catholic and Protestant Church leaders in China, as well as ordinary believers, are regularly being arrested, regularly being beaten and fined by the dictatorship.

I have led three human rights trips to the People's Republic of China, Mr. Speaker. I have seen people in this country, the community that has made it to this country and gotten asylum, and also people who have risked much to tell stories in China itself, about the incredible repression that the house church movement and the Catholic Church that is aligned with Rome endures on behalf of their belief in Christ. It is unbelievable, the beatings, the

middle of the night visits by the security police, who drag them off to be interrogated, and then the long incarcerations for their faith.

As a matter of fact, we met with one bishop who is aligned with Rome who actually celebrated mass in his apartment, only to be arrested and then get thrown back into prison for that expression of his religious belief, having already spent more than a dozen years in incarceration because of his faith.

We see that the same thing is happening in Vietnam. There are a number of believers who are not aligned with officially recognized churches, which are controlled by the dictatorship, who are languishing in prison and often being tortured and imprisoned for their faith.

Mr. Speaker, the Subcommittee on International Operations and Human Rights, which I chair, held a series of hearings in the springtime on religious persecution, and we spent an entire day looking at the rising tide of persecution against Christians.

□ 1700

The most compelling stories at that hearing and those that were submitted to us came from the actual victims who told us of the sufferings and of what they had endured. Persecution occurs in countries including Egypt, Indonesia, Iran, Morocco, Pakistan, Saudi Arabia, the Sudan, and Turkey, where Government policies repress religious practice and where Islamic extremists stir public uprisings against Christians, particularly those who seek to share their faith and perhaps to witness for Christ or those who convert from Islam to Christianity. People can be killed simply for changing their faith. Where is the religious freedom in those countries where that is practiced?

Persecution also occurs, as I said, in the People's Republic of China, in Cuba, in Laos, North Korea, and Vietnam, where Communist regimes feel threatened by Christians whose faith ultimately transcends the reach and control of political authorities.

In many parts of the world, those in political power rightly see that the inner freedom and human dignity inherent in the Christian faith undermines the pervasive thought control imposed by those dictatorial regimes. Tragically, the testimony heard by our subcommittee confirmed that in countries governed by antidemocratic and anti-Western regimes, Christians even become the scapegoats and as a means to vent and popularize hatred of the West and of the United States.

Finally, Mr. Speaker, the worldwide persecution of Christians continues to this day, and regrettably it is on the rise, one of the most compelling human rights issues in modern times. The martyrdom of Christians has reached absolutely staggering and shocking levels in this century. People of conscience have committed themselves to prayer and to action on behalf of those who are suffering.

I commend the National Association of Evangelicals for their clarion call to action. Pope John Paul II earlier this year denounced the persecution of Christians by Islamic extremists and by Communist regimes. The World Evangelical Fellowship has spearheaded an international day of prayer for the persecuted church. The first annual day of prayer is set for Sunday, September 29.

Mr. Speaker, the gentleman from Virginia [Mr. WOLF] has raised all of our attention for years to this. I have traveled with him to such disparate places as the PRC and Romania, and we have seen persecuted Christians. This is another manifestation of his concern for our suffering brethren. I hope everybody votes for this and supports it and joins in this effort to provide freedom and some help for our suffering brethren.

Mr. GILMAN. MR. Speaker, I thank the gentleman for his strong supporting arguments and for pushing this measure through at this time.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to thank the gentleman from Virginia [Mr. WOLF] for bringing House Resolution 515 forward. He is a leader on the issue of protecting human rights of people around the world. And I am thankful that he has brought notice to this House the tragic increase of anti-Christian bigotry and persecution around the world.

America is the land of religious freedom, and should be a defender of religious liberty. We stand for a person's right to practice a faith. We have long since been familiar with anti-Semitism around the world, which continues to rear its ugly head. Many lawmakers have stood tall to fight that scourge. But we are here today because a new kind of persecution, anti-Christian persecution, is on the rise.

In Sudan, China, Iran, Vietnam, and India, and, I regret, in other countries as well, Christians are being punished for believing in Jesus Christ or for possessing a Bible. For merely acknowledging the Scripture, Christians in these countries risk being kidnapped, killed, raped, and subjected to many other forms of torture. This is an affront to the international community and to all people of conscience.

As a nation, the United States was founded on the basis that the Freedom of Religion was a basic human right. As elected representatives serving in a hall that declares "In God We Trust," we in Congress have an obligation to speak out when religious freedom is denied.

This resolution today affirms the commitment of Congress to condemn the threats to religious liberty around the world, on behalf of Christians and other persecuted people of faith. I call on all my colleagues to join us today in support of House Resolution 515.

Again, I thank the gentleman from Virginia [Mr. WOLF] for his leadership on this issue and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of House Resolution 515, offered by my good friend and colleague, Mr. WOLF of Virginia, who has been a tireless ally in defending the helpless, the imprisoned, the enslaved, and the persecuted—particularly persecuted Christians. I commend my colleague for authoring this resolution which recognizes the modern day travesty of religious intolerance, imprisonment and even martyrdom.

In recent years, Pakistani Christian Javid Mashi was martyred; Iranian Christian Mehdi Dibaj, Minister Tateos Michaelian and Bishop Haik Hovespian-Mehr were martyred; Catholic and Protestant church leaders in China, as well as ordinary believers, are regularly being arrested, beaten and fined; Christians in Sudan have been executed, enslaved, tortured, and sent into forced labor for their refusal to convert to Islam; for the last 18 years, about one dozen Catholic priests and monks in Vietnam have been imprisoned; in nearby Cuba, Pastor Orson Vila remains under house arrest following his 10 months imprisonment. Mr. Speaker, the entire century has been plagued with the martyrdom and persecution of religious leaders and their faithful flocks—the number of Catholic, Evangelical, and Orthodox Christians who have died for their faith will never be fully accounted.

The Subcommittee on International Operations and Human Rights, which I chair, held hearings this past spring on religious persecution, particularly Christian persecution. The most compelling stories were from the victims themselves. Persecution occurs in countries, such as Egypt, Indonesia, Iran, Morocco, Pakistan, Saudi Arabia, Sudan and Turkey, where government policies repress religious practice and where Islamic extremists stir public uprisings against Christians, particularly those who seek to share their faith or those who convert from Islam to Christianity.

Persecution also occurs in China, Cuba, Laos, North Korea and Vietnam, where Communist regimes feel threatened by Christians whose faith ultimately transcends the reach and control of political authorities. In many parts of the world, those in political power rightly see that the inner freedom and human dignity inherent in the Christian faith undermines the pervasive control sought by dictatorial regimes. Tragically, the testimony heard by the Subcommittee confirmed that, in countries governed by anti-democratic, anti-Western regimes, Christians become scapegoats as a means to vent and popularize hatred of the West and of the United States.

Clearly, if the United States is to retain its moral leadership, we must initiate policies that distance the United States from governments which engage in these persecutions, or allow rampages against the Christian communities and believers to go unchecked. The United States must seek to insure that the inalienable right to freedom of religion, along with the concomitant rights of freedom of speech, assembly, and the freedom to change one's religion, are supported through the United States foreign policy. Governments and tyrannical religious groups must be put on notice that persecution of Christians violates numerous international treaties and covenants and will not be tolerated by the United States. The Unites States must exercise decisive leadership and

consistently raise these issues in bilateral negotiations and relations, and in multilateral fora.

My colleagues, Mr. WOLF and Mr. PORTER, and I had encouraged the White House to appoint a Special Advisor on matters of religious persecution. Recent press reports indicate that a special advisory committee is being appointed, headed by Department of State Assistant Secretary John Shattuck. While the stated mandate of the committee has not been made public, I would suggest that the mandate be unequivocal with a focus on the tragedy of religious persecution, particularly of Christians. The committee should have precise reporting deadlines. Proposing specific recommendations of policy, diplomatic action and other initiatives appropriate for government to undertake should be part of the committee's mandate.

The worldwide persecution of Christians is one of the most compelling human rights issues in modern times. The martyrdom of Christians has reached alarming levels in this century and people of conscience have committed themselves to prayer and to action on behalf of those suffering. I commend the National association of Evangelical for their clarion call to action. Pope John Paul II, earlier this year, denounced the persecution of Christians by Islamist and communist regimes. The World Evangelical Fellowship has spearheaded an international day of prayer for the persecuted church. The first annual day of prayer is set for Sunday, September 29. I urge my friends and colleagues of all faiths to join in this call to action.

Mr. Speaker, I urge my colleagues to support the resolution before the House, House Resolution 515.

Mr. PORTER. Mr. Speaker, I would like to thank my fried and colleague from Virginia for introducing this important piece of legislation and for his leadership on this issue. I am proud to be a cosponsor of this outstanding resolution.

The persecution of Christians throughout the world is a serious and growing problem, but it has received surprisingly little attention in the mainstream media. According to the World Christian Encyclopedia, 160,000 Christians are killed each year for practicing their faith. The Congressional Human Rights Caucus held a briefing for Members on March 7 of this year. We heard from various experts about the widespread persecution of Christians in China, Iran, Vietnam, North Korea, Cuba, Pakistan, Sudan, and Egypt.

In Sudan, Christian women and children as young as six are captured and sold into slavery as part of the Sudanese Government's jihad against Christianity. In China, churches and religious texts are destroyed and Christians are regularly jailed. Recently, three Christian leaders in China were beaten to death by Chinese authorities. In Kuwait, Robert Hussein was sentenced to death for converting to Christianity. These are just a few of the horrible examples of how Christians throughout the world are harassed and oppressed. Is it any surprise that among the worst offenders are the last remaining totalitarian regimes where religious freedom does not exist?

Mr. WOLF, Mr. SMITH of New Jersey and I sent a letter to President Clinton earlier this year, calling on him to present a statement on this crucial issue, and to fulfill his pledge to appoint a special adviser on religious persecution. As evidenced by the need for this legislation, the White House has failed to act. I am hopeful that this resolution will prompt strong action by the administration, placing the full force of our Nation's moral authority behind efforts to end persecution of religious minorities.

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

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

The SPEAKER pro tempore. (Mr. GUNDERSON). The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 515, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of the measure just considered.

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

There was no objection.

NATIONAL INVASIVE SPECIES ACT OF 1996

Mr. BOEHLERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3217) to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3217

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) IN GENERAL.—This Act may be cited as the "National Invasive Species Act of 1996".

(b) REFERENCES.—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 Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990.

(a) FINDINGS; DEFINITIONS.—

(1) FINDINGS.—Section 1002(a) (16 U.S.C. 4701(a)) is amended—

(A) by striking paragraphs (2) and (3) and inserting the following new paragraphs:

"(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;

"(3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—

"(A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;

"(B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and

"(C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;";

(B) in paragraph (4)—

(i) by inserting "by the zebra mussel and ruffe, round goby, and other nonindigenous species" after "other species"; and

(ii) by striking "and" at the end;

(C) in paragraph (5), by striking the period and inserting a semicolon; and

(D) by adding at the end the following new paragraphs:

"(6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;

"(7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;

"(8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;

"(9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;

"(10) since their introduction in the early 1980's in ballast water discharges, ruffe—

"(A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);

"(B) have spread to Lake Huron; and

"(C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;

"(11) examples of nonindigenous species that, as of the date of enactment of the National Invasive Species Act of 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—

"(A) the mitten crab (Eriocher sinensis) that has become established on the Pacific Coast;

"(B) the green crab (Carcinus maenas) that has become established in the coastal waters of the Atlantic Ocean;

"(C) the brown mussel (Perna perna) that has become established along the Gulf of Mexico; and

"(D) certain shellfish pathogens;

"(12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

"(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

"(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

"(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.".

(2) DEFINITIONS.—Section 1003 (16 U.S.C. 4702) is amended—

(A) by striking paragraph (1) and redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively;

(B) in paragraph (2), as redesignated by subparagraph (A) of this paragraph, by striking "assistant Secretary" and inserting "Assistant Secretary";

(C) by redesignating paragraphs (9) through (15) as paragraphs (11) through (17), respectively; and

(D) by inserting after paragraph (7), as redesignated by subparagraph (A) of this paragraph, the following:

"(8) 'Great Lakes region' means the 8 States that border on the Great Lakes;

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

"(10) 'interstate organization' means an entity—

"(A) established by—

"(i) an interstate compact that is approved by Congress;

"(ii) a Federal statute; or

"(iii) a treaty or other international agreement with respect to which the United States is a party; and

"(B)(i) that represents 2 or more—

"(I) States or political subdivisions thereof; or

"(II) Indian tribes; or

"(ii) that represents—

"(I) 1 or more States or political subdivisions thereof; and

"(II) 1 or more Indian tribes; or

"(iii) that represents the Federal Government and 1 or more foreign governments; and

"(C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;".

(b) AQUATIC NUISANCE SPECIES CONTROL PROGRAM.—

(1) AMENDMENT TO HEADING.—The heading to subtitle B (16 U.S.C. 4711 et seq.) is amended to read as follows:

"Subtitle B—Prevention of Unintentional Introductions of Nonindigenous Aquatic Species".

(2) AQUATIC NUISANCE SPECIES.—Section 1101 (16 U.S.C. 4711) is amended to read as follows:

"SEC. 1101. AQUATIC NUISANCE SPECIES IN WATERS OF THE UNITED STATES.

"(a) GREAT LAKES GUIDELINES.—

"(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

"(2) CONTENT OF GUIDELINES.—The guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

"(B) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(C) take into consideration different vessel operating conditions; and

"(D) be based on the best scientific information available.

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

"(2) CONTENT OF REGULATIONS.—The regulations issued under this subsection shall—

"(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

"(B) require a vessel to—

"(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

"(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

"(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

"(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

"(F) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(G) take into consideration different operating conditions; and

"(H) be based on the best scientific information available.

"(3) ADDITIONAL REGULATIONS.—In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

"(4) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

"(c) VOLUNTARY NATIONAL GUIDELINES.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

"(2) CONTENT OF GUIDELINES.—The voluntary guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

"(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

"(C) protect the safety of—

"(i) each vessel; and

"(ii) the crew and passengers of each vessel;

"(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

"(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

"(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

"(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

"(i) ship operations other than ballast water discharge; and

"(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

"(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i), in order to enable the Secretary to determine compliance with the guidelines, including—

"(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

"(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

"(G) provide for sampling procedures to monitor compliance with the guidelines;

"(H) take into consideration—

"(i) vessel types;

"(ii) variations in the characteristics of point of origin and receiving water bodies;

"(iii) variations in the ecological conditions of waters and coastal areas of the United States; and

"(iv) different operating conditions;

"(I) be based on the best scientific information available;

"(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

"(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

"(L) not apply to crude oil tankers engaged in the coastwise trade.

"(3) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

"(d) REPORT TO CONGRESS.—Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e).

"(e) PERIODIC REVIEW AND REVISION.—

"(1) IN GENERAL.—Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c), and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

"(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) and the regulations promulgated under this Act;

"(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

"(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reducing the introduction and spread of aquatic nuisance species by vessels; and

"(D) as necessary, on the basis of the best scientific information available—

"(i) revise the guidelines and regulations referred to in subparagraph (A);

"(ii) promulgate additional regulations pursuant to subsection (f)(1); or

"(iii) carry out each of clauses (i) and (ii).

"(2) SPECIAL REVIEW AND REVISION.—Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

"(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

"(B) as necessary, in the same manner as provided under paragraph (1)(D)—

"(i) revise those guidelines;

"(ii) promulgate additional regulations pursuant to subsection (f)(1); or

"(iii) carry out each of clauses (i) and (ii).

"(3) CRITERIA FOR EFFECTIVENESS.—Not later than 18 months after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c).

"(f) AUTHORITY OF SECRETARY.—

"(1) GENERAL REGULATIONS.—If, on the basis of a periodic review conducted under subsection (e)(1) or a special review conducted under subsection (e)(2), the Secretary determines that—

"(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) is inadequate; or

"(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2),

the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

"(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated by the Secretary under paragraph (1)—

"(A) shall—

"(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d);

"(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c); and

"(iii) provide for the enforcement of the regulations; and

"(B) may be regional in scope.

"(3) INTERNATIONAL REGULATIONS.—The Secretary shall revise regulations promulgated under this subsection to the extent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

"(g) SANCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under subsection (b) or (f) shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

"(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under subsection (b) or (f) is guilty of a class C felony.

"(3) REVOCATION OF CLEARANCE.—Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f).

"(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

"(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

"(B) the recordkeeping and reporting requirements of the Act are complied with.

"(h) COORDINATION WITH OTHER AGENCIES.—In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

"(i) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

"(j) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

"(k) SAFETY EXEMPTION.—

"(1) MASTER DISCRETION.—The master of a vessel is not required to conduct a ballast water exchange if the master decides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

"(2) OTHER REQUIREMENTS.—A vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor unless the Secretary issues requirements applicable to such vessel under subsection (b)(2)(B)(ii), (b)(2)(B)(iii), (c)(2)(D)(ii), or (c)(2)(D)(iii).

"(l) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.".

(c) NATIONAL BALLAST WATER MANAGEMENT INFORMATION.—Section 1102 (16 U.S.C. 4712) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.";

(2) in subsection (a)—

(A) in paragraphs (1) and (2), by inserting ", in cooperation with the Secretary," before "shall conduct" each place it appears;

(B) in paragraph (2), by inserting "Lake Champlain and other" after "economic uses of";

(3) by striking subsection (b) and inserting the following:

"(b) ECOLOGICAL AND BALLAST WATER DISCHARGE SURVEYS.—

"(1) ECOLOGICAL SURVEYS.—

"(A) IN GENERAL.—The Task Force, in cooperation with the Secretary, shall conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, and Honolulu Harbor and, as necessary, of other estuaries of national significance and other waters that the Task Force determines—

"(i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and

"(ii) to require further study.

"(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

"(i) examine the attributes and patterns of invasions of aquatic nuisance species; and

"(ii) provide an estimate of the effectiveness of ballast water management and other vessel management guidelines issued and regulations promulgated under this subtitle in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

"(2) BALLAST WATER DISCHARGE SURVEYS.—

"(A) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

"(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Secretary shall—

"(i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and

"(ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subtitle in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

"(3) COLUMBIA RIVER.—The Secretary, in cooperation with the Task Force and academic institutions in each of the States affected, shall conduct an ecological and ballast water discharge survey of the Columbia River system consistent with the requirements of paragraphs (1) and (2)."; and

(4) by adding at the end the following new subsections:

"(e) REGIONAL RESEARCH GRANTS.—Out of amounts appropriated to carry out this subsection for a fiscal year, the Under Secretary shall—

"(1) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(2) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(3) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

"(4) make available not to exceed $500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

"(5) make available not to exceed $750,000 to fund research on aquatic nuisance species prevention and control in the San Francisco Bay-Delta Estuary through grants, to be competitively awarded and subject to peer review, to universities and research institutions.

"(f) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

"(A) ballasting practices;

"(B) compliance with the guidelines issued pursuant to section 1101(c); and

"(C) any other information obtained by the Task Force under subsection (b).

"(2) REPORT.—In consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), the Secretary shall prepare and submit to the Task Force and the Congress, on a biannual basis, a report that synthesizes and analyzes the data referred to in paragraph (1) relating to—

"(A) ballast water delivery and management; and

"(B) invasions of aquatic nuisance species resulting from ballast water.".

(d) ARMED SERVICES BALLAST WATER PROGRAM; BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—Subtitle B (16 U.S.C. 4701 et seq.) is amended by adding at the end the following new sections:

"SEC. 1103. ARMED SERVICES BALLAST WATER PROGRAMS.

"(a) DEPARTMENT OF DEFENSE VESSELS.—Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

"(b) COAST GUARD VESSELS.—Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

"SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

"(a) TECHNOLOGIES AND PRACTICES DEFINED.—For purposes of this section, the term 'technologies and practices' means those technologies and practices that—

"(1) may be retrofitted—

"(A) on existing vessels or incorporated in new vessel designs; and

"(B) on existing land-based ballast water treatment facilities;

"(2) may be designed into new water treatment facilities;

"(3) are operationally practical;

"(4) are safe for a vessel and crew;

"(5) are environmentally sound;

"(6) are cost-effective;

"(7) a vessel operator is capable of monitoring; and

"(8) are effective against a broad range of aquatic nuisance species.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 1301(e), the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

"(2) LOCATION.—The installation and construction of the technologies and practices used in the demonstration program conducted under this subsection shall be performed in the United States.

"(3) VESSEL SELECTION.—In demonstrating technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—

"(A) use only vessels that—

"(i) are approved by the Secretary;

"(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and

"(iii) are—

"(I) publicly or privately owned; and

"(II) in active use for trade or other cargo shipment purposes during the demonstration;

"(B) select vessels for participation in the program by giving priority consideration—

"(i) first, to vessels documented under chapter 121 of title 46, United States Code;

"(ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and

"(iii) third, to any other vessels that regularly call on ports in the United States; and

"(C) seek to use a variety of vessel types, including vessels that—

"(i) call on ports in the United States and on the Great Lakes; and

"(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

"(4) SELECTION OF TECHNOLOGIES AND PRACTICES.—In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.

"(5) REPORT.—Not later than 3 years after the date of enactment of the National Invasive Species Act of 1996, the Secretary of the Interior and the Secretary of Commerce shall prepare and submit a report to the Congress on the demonstration program conducted pursuant to this section. The report shall include findings and recommendations of the Secretary of the Interior and the Secretary of Commerce concerning technologies and practices.

"(c) AUTHORITIES; CONSULTATION AND COOPERATION WITH INTERNATIONAL MARITIME ORGANIZATION AND TASK FORCE.—

"(1) AUTHORITIES.—In conducting the demonstration program under subsection (b), the Secretary of the Interior may—

"(A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;

"(B) accept funds, facilities, equipment, or personnel from other Federal agencies; and

"(C) accept donations of property and services.

"(2) CONSULTATION AND COOPERATION.—The Secretary of the Interior shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.".

(e) AMENDMENTS TO SUBTITLE C.—

(1) SUBTITLE HEADING.—The heading to subtitle C (16 U.S.C. 4721 et seq.) is amended to read as follows:

"Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal".

(2) TASK FORCE.—Section 1201 (16 U.S.C. 4721) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (5);

(ii) by redesignating paragraph (6) as paragraph (7); and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) the Secretary of Agriculture; and"; and

(B) in subsection (c), by inserting "the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program," before "and State agencies".

(3) RESEARCH PROGRAM.—Section 1202 (16 U.S.C. 4722) is amended—

(A) in subsection (f)(1)(A), by inserting "and impacts" after "economic risks"; and

(B) in subsection (i)—

(i) in paragraph (1)—

(I) by striking "(1) IN GENERAL.—The Task Force" and inserting the following:

"(1) ZEBRA MUSSEL.—

"(A) IN GENERAL.—The Task Force";

(II) by striking "(A) research" and inserting the following:

"(i) research";

(III) by striking "(B) tracking" and inserting the following:

"(ii) tracking";

(IV) by striking "(C) development" and inserting the following:

"(iii) development"; and

(V) by striking "(D) provision" and inserting the following:

"(iv) provision";

(ii) in paragraph (2), by striking "(2) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—" and inserting the following:

"(B) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—";

(iii) in subparagraph (B) of paragraph (1), as so redesignated, by striking the first sentence and inserting the following: "The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities.";

(iv) in paragraph (1), by adding after subparagraph (B), as so redesignated, the following new subparagraph:

"(C) VOLUNTARY GUIDELINES.—Not later than 1 year after the date of enactment of this subparagraph, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph."; and

(v) by adding at the end the following new paragraphs:

"(2) DISPERSAL CONTAINMENT ANALYSIS.—

"(A) RESEARCH.—The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

"(i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and

"(ii) adhere to research protocols developed pursuant to subsection (f)(2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, $500,000.

"(3) DISPERSAL BARRIER DEMONSTRATION.—

"(A) IN GENERAL.—The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

"(B) REPORT.—Not later than 18 months after the date of enactment of this paragraph, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

"(i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and

"(ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army, to carry out this paragraph, $750,000.

"(4) CONTRIBUTIONS.—To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

"(5) TECHNICAL ASSISTANCE.—The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.".

(4) IMPLEMENTATION.—Section 1202(j)(1) (16 U.S.C. 4722(j)(1)) is amended by striking "Not later than 18 months after the date of the enactment of this Act, the Director" and inserting "The Director, the Secretary,".

(5) REGIONAL COORDINATION.—Section 1203 (16 U.S.C. 4723) is amended—

(A) by striking the section heading and inserting the following:

"SEC. 1203. REGIONAL COORDINATION.";

(B) in subsection (a)—

(i) by striking "(a) IN GENERAL.—Not" and inserting the following:

"(a) GREAT LAKES PANEL.—

"(1) IN GENERAL.—Not";

(ii) by striking "(1) identify" and inserting the following:

"(A) identify";

(iii) by striking "(2) make" and inserting the following:

"(B) make";

(iv) by striking "(3) assist" and inserting the following:

"(C) assist";

(v) by striking "(4) coordinate" and inserting the following:

"(D) coordinate";

(vi) by striking "(5) provide" and inserting the following:

"(E) provide";

(vii) by striking "(6) submit" and inserting the following:

"(F) submit";

(viii) in paragraph (1), as so redesignated—

(I) in the matter preceding subparagraph (A), by inserting "region" before "representatives"; and

(II) in subparagraphs (A) through (F), by striking "Great Lakes" each place it appears and inserting "Great Lakes region";

(C) by striking "(b) CONSULTATION.—The Task Force" and inserting the following:

"(2) CONSULTATION.—The Task Force";

(D) by striking "(c) CANADIAN PARTICIPATION.—The panel" and inserting the following:

"(3) CANADIAN PARTICIPATION.—The panel";

(E) in paragraphs (2) and (3) of subsection (a), as so redesignated, by striking "this section" and inserting "this subsection"; and

(F) by adding at the end the following new subsections:

"(b) WESTERN REGIONAL PANEL.—Not later than 30 days after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—

"(1) identify priorities for the Western region with respect to aquatic nuisance species;

"(2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 1202(i) of this Act;

"(3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this Act;

"(4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;

"(5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and

"(6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.

"(c) ADDITIONAL REGIONAL PANELS.—The Task Force shall—

"(1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b); and

"(2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).".

(6) STATE OR INTERSTATE WATERSHED AQUATIC NUISANCE SPECIES MANAGEMENT PLAN.—Section 1204 (16 U.S.C. 4724) is amended—

(A) in subsection (a)—

(i) by striking the subsection designation and heading and inserting the following:

"(a) STATE OR INTERSTATE INVASIVE SPECIES MANAGEMENT PLANS.—";

(ii) in paragraph (1)—

(I) by striking the matter preceding subparagraph (A) and inserting the following:

"(1) IN GENERAL.—After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—";

(II) in subparagraph (A), by striking "technical and financial assistance" and inserting "technical, enforcement, or financial assistance (or any combination thereof)"; and

(III) in subparagraphs (A) and (B), by inserting "or within the interstate region involved" after "within the State" each place it appears;

(iii) in paragraph (2)—

(I) in subparagraph (B), by striking "and" at the end of the subparagraph;

(II) by redesignating subparagraph (C) as subparagraph (D);

(III) by inserting after subparagraph (B) the following:

"(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and"; and

(IV) in subparagraph (D), as so redesignated, by inserting ", and enabling legislation" before the period;

(iv) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by inserting "or interstate organization" after "the State"; and

(bb) by inserting "Indian tribes," after "local governments and regional entities,"; and

(II) in subparagraph (B), by inserting "or the appropriate official of an interstate organization" after "a State"; and

(v) in paragraph (4), by inserting "or the interstate organization" after "the Governor";

(B) in subsection (b)(1)—

(i) by striking "or the Assistant Secretary, as appropriate under subsection (a),"; and

(ii) by striking "approved management plans" and inserting "management plans approved under subsection (a)"; and

(C) by adding at the end the following new subsection:

"(c) ENFORCEMENT ASSISTANCE.—Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, United States Code, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.".

(f) AUTHORIZATIONS OF APPROPRIATIONS.—Section 1301 (16 U.S.C. 4741) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking paragraph (3) and inserting the following;

"(3) to the Secretary to carry out section 1101—

"(A) $2,000,000 for each of fiscal years 1997 and 1998; and

"(B) $3,000,000 for each of fiscal years 1999 through 2002;"; and

(C) by adding at the end the following new paragraphs:

"(4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 1102(b)—

"(A) $1,000,000 to the Department of the Interior, to be used by the Director; and

"(B) $1,000,000 to the Secretary; and

"(5) for each of fiscal years 1997 through 2002—

"(A) $3,000,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to the Under Secretary to carry out section 1102(e); and

"(B) $500,000 to the Secretary to carry out section 1102(f).";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "1991, 1992, 1993, 1994, and 1995" and inserting "1997 through 2002"; and

(B) by striking paragraphs (1) through (7) and inserting the following:

"(1) $6,000,000 to the Department of the Interior, to be used by the Director to carry out sections 1202 and 1209;

"(2) $1,000,000 to the Department of Commerce, to be used by the Under Secretary to carry out section 1202;

"(3) $1,625,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund aquatic nuisance species prevention and control research under section 1202(i) at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration, of which $500,000 shall be made available for grants, to be competitively awarded and subject to peer review, for research relating to Lake Champlain;

"(4) $5,000,000 for competitive grants for university research on aquatic nuisance species under section 1202(f)(3) as follows:

"(A) $2,800,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund grants under section 205 of the National Sea Grant College Program Act (33 U.S.C. 1124);

"(B) $1,200,000 to fund grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322); and

"(C) $1,000,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

"(5) $3,000,000 to the Department of the Army, to be used by the Assistant Secretary to carry out section 1202(i)(1)(B); and

"(6) $300,000 to the Department of the Interior, to be used by the Director to fund regional panels and similar entities under section 1203, of which $100,000 shall be used to fund activities of the Great Lakes Commission.";

(3) by striking subsection (c) and inserting the following:

"(c) GRANTS FOR STATE MANAGEMENT PROGRAMS.—There are authorized to be appropriated for each of fiscal years 1997 through 2002 $4,000,000 to the Department of the Interior, to be used by the Director for making grants under section 1204, of which $1,500,000 shall be used by the Director, in consultation with the Assistant Secretary, for management of aquatic nuisance vegetation species."; and

(4) by adding at the end the following new subsection:

"(e) BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—There are authorized to be appropriated $2,500,000 to carry out section 1104.".

(g) REFERENCES TO APPROPRIATE COMMITTEES.—The Act (16 U.S.C. 4701 et seq.) is amended by striking "appropriate Committees" each place it appears and inserting "Congress".

(h) TECHNICAL CORRECTIONS.—Public Law 101-646 (16 U.S.C. 4701 et seq.) is amended—

(1) in titles I, II, and IV, by striking the quotation marks at the beginning of any title, subtitle, section, subsection, paragraph, subparagraph, clause, subclause, or undesignated provision;

(2) at the end of titles II and IV, by striking the closing quotation marks and the final period; and

(3) in section 1003—

(A) by striking each single opening quotation mark and inserting double opening quotation marks; and

(B) by striking each single closing quotation mark and inserting double closing quotations marks.

SEC. 3. STATUTORY CONSTRUCTION.

Nothing in this Act or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the "Convention"), including the authorities and responsibilities of the Great Lakes Fishery Commission—

(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. BOEHLERT] and the gentleman from Tennessee [Mr. CLEMENT] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. BOEHLERT].

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

Mr. Speaker, this broadly supported bipartisan legislation, and I stress, broadly supported and bipartisan legislation, was introduced and championed by Mr. LATOURETTE. It builds upon the 1990 act that addressed zebra mussels and other invasive species in the Great Lakes.

H.R. 3217 is national in scope, extending a voluntary incentive-based approach to all coasts and regions at risk. Whether you call them invasive, exotic or nonindigenous, these species of plants, animals and invertebrates can wreak havoc on infrastructure, on commerce, on recreation and tourism, and the environment.

H.R. 3217 coordinates agencies, research institutions and others to prevent and control the introduction and spread of invasive species primarily through voluntary ballast water exchange and management education and research.

The Committee on Transportation and Infrastructure's report on H.R. 3217 provides a detailed description of the bill and our committee's intent.

Changes have been made in the suspension motion. In brief, these changes improve the bill by: incorporating recommendations by other committees on matters ranging from research grants and peer review to NOAA and the Smithsonian Institution; ensuring a fair and reasonable transition from voluntary guidelines to regulations, if necessary; tailoring the scope and content of the guidelines to account for

special factors and situations; targeting research funding and assistance to additional areas at risk in the West; and ensuring the master of the vessel continues to have discretion to ensure the health and safety of the crew and the vessel.

Finally, I would be remiss if I did not thank some of the members of the committees instrumental in moving this important legislation. But more than anyone else, the gentleman from Ohio [Mr. LATOURETTE] is responsible for this bill and its movement through the House. He has worked with all interests to build broadly supported legislation. He has also worked closely with his colleagues from Ohio and in the other body, Senator GLENN, who worked on the 1990 law and the companion Senate bill to H.R. 3217.

Mr. Speaker, I do not want anyone to think that because of all the hard work on this that Mr. LATOURETTE is one-dimensional. He has cosponsored and been a leader in a number of legislative vehicles in this session of Congress dealing with the Great Lakes. Let me point out that the Great Lakes incorporate 20 percent of the world's fresh water surface water. So Mr. LATOURETTE has proven by performance very early in his distinguished career that he is a leader and a good legislator.

We have had the Committee on Transportation and Infrastructure members who also deserve a great deal of congratulations for their efforts, particularly the gentleman from Minnesota [Mr. OBERSTAR], the ranking member of the full committee. The chairman and ranking member of the Subcommittee on Water Resources and Environment, the gentleman from Pennsylvania [Mr. BORSKI], who is my ranking member, and I am privileged to serve as chair of that subcommittee, and the chairman and ranking member of the Subcommittee on Coast Guard and Maritime Transportation, the gentleman from North Carolina [Mr. COBLE], and the gentleman from Tennessee [Mr. CLEMENT].

Other committees have been helpful as well, particularly the Committee on Resources, also the Committee on Science, the Committee on House Oversight, the Committee on International Relations, the Committee on National Security and the Committee on Agriculture. I think you get the picture here. Everyone worked together on this one, and Mr. LATOURETTE is the guy who brought everyone together.

Mr. Speaker, I strongly urge my colleagues to support this very important legislation.

Mr. Speaker, I include for the RECORD a brief summary of the manager's amendment, as follows:

H.R. 3217, NATIONAL INVASIVE SPECIES ACT OF 1996—SUMMARY OF MANAGER'S AMENDMENT

The amendment in the nature of a substitute makes certain minor changes to the bill to clarify certain exemptions, add a requirement to report to Congress prior to issuing national regulations, authorize additional research funding, address comments made by other committees, and make other technical and conforming changes.

A new subparagraph (K) is added to section 1101(c)(2) to clarify the intent that passenger vessels equipped with certain environmentally sound and protective ballast water treatment systems be exempt from otherwise applicable requirements to exchange ballast water. As noted in the Committee Report, H. Rept. 104–815, certain passenger vessels use sodium hyprochlorate solutions or metal electrolytic cathodes to kill undesirable organisms in ballast water. Passenger vessels equipped with such treatment systems are exempt from any requirement to exchange ballast water, unless the Secretary of Transportation determines that such ballast water treatment systems are not as environmentally sound and effective as ballast water exchange.

A new subparagraph (L) also is added to section 1101(c)(2) to codify an exemption from the national voluntary guidelines for crude oil tankers engaged in coastwide trade from Alaska. Under the laws of some states, these tankers are forbidden to travel within the exclusive economic zone ("EEZ"). By obeying the laws of those states and traveling a short distance outside the EEZ, these tankers could become subject to requirements to exchange ballast water under this Act. Such tankers have been engaged in coastwide trade for many years with no known adverse effect on ecosystems in Alaska or the West Coast. We expect the regional research funding authorized under this bill for the Pacific Coast to be used in part to conduct monitoring to verify that this remains true.

The amendment adds a safety exemption from ballast water change requirements under this Act in new section 1101(k). This language codifies the existing exemption found in the Great Lakes regulations and makes it applicable to any new national regulations that may be issued. This exemption applies only to a requirement under the Act to exchange ballast water, and is based on the fact that ballast water exchange may be unsafe for certain vessels. We note that the bill authorizes the Secretary to identify other methods of managing ballast water or other locations for ballast water exchange. If safe and available, a vessel may be required, by regulation, following notice and an opportunity for comment, to conduct such other ballast water management practices as are identified by the Secretary, in accordance with subsection (b) of the Act (for the Great Lakes) or (c) and (e) of the Act (for other waters of the United States). If no such alternative exists, a vessel exercising the safety exemption may not be precluded from discharging ballast. We also note that ballast water exchange by many passengers vessels may be unsafe, and such vessels also are likely to be eligible for the safety exemption from ballast water exchange added by this new paragraph (k).

The amendment also adds a requirement for the Secretary of Transportation to submit a report to Congress in new section 1101(d), prior to issuing any national regulations under section 1101(e). The purpose of this report is to provide Congress with an opportunity to review compliance with and the effectiveness of the national program for controlling aquatic nuisance species, before the program becomes enforceable regulations.

Several amendments are made to section 1102(e), relating to the regional research grants. First, due to its status as one of the most threatened estuaries, the amendment adds in section 1102(e) an authorization of $750,000 a year for research relating to the San Francisco Bay-Delta Estuary. The reported bill included $500,000 for grants for research on the Pacific Coast. We intend that the Pacific Coast funding be used for research in Pacific Coast areas other than the San Francisco Bay-Delta Estuary.

Second, because the Smithsonian does not generally act as a granting entity, the money for the regional research grants is authorized to be appropriated to the Under Secretary of Commerce, to allow the National Oceanic and Atmospheric Administration (NOAA) to act as the granting entity, rather than the Smithsonian Institution.

Third, the amendment deletes references to specific research consortia in section 1102(e) and elsewhere in the bill. This change does not reflect any intent to preclude the use of research consortia to assist in administering the regional research grants authorized by section 1102(e) or research under section 1202. The reported bill identified the Chesapeake Bay Consortium, the Louisiana Universities Consortium, and the Lake Champlain Research Consortium as appropriate entities to administer research grants. We encourage NOAA to make use of these research consortia in carrying out the research authorized by this Act.

The amendment also makes minor changes to the authorization of appropriations in section 1301(f). First, language is added to the authorization of appropriations to NOAA for aquatic nuisance species research to clarify the intent that the authorization in this bill is not an increase above the funding levels for all of NOAA's environmental research authorization in H.R. 3322, should H.R. 3322 be enacted into law.

Second, the amendment modifies the $4,000,000 a year authorized in the reported bill to be appropriated to NOAA's National Sea Grant College Program and land grant agricultural colleges for competitive grants for university research on aquatic nuisance species under section 1202(f)(3). The amendment clarifies this authorization by specifically authorizing $2,800,000 for NOAA and $1,200,000 for the land grant colleges.

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

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

It is a pleasure to be working with the gentleman from New York [Mr. BOEHLERT] on this legislation. We now call him Mr. Bulldog because he was honored for saving the taxpayers money, and we are proud of the gentleman from New York.

Mr. Speaker, I rise in strong support of H.R. 3217, the National Invasive Species Act of 1996. On July 17, the Subcommittee on Coast Guard and Maritime Transportation and the Subcommittee on Water Resources held a joint hearing on this important legislation.

While Members from the Great Lakes region were very aware of the threat posed by foreign plants and animals that arrive in the United States in the ballast tanks of ships, we received much testimony on the ever growing threat that these nuisance species pose

to communities outside the Great Lakes Region. For example, the Corps of Engineers has found that Zebra Mussels have spread from the Great Lakes region into the Mississippi River system and into my home state of Tennessee.

Congress enacted the Nonindegenous Aquatic Nuisance Prevention and Control of 1990 to address these issues on the Great Lakes. It is now time to expand this program nationally in order to protect our ecosystems and our communities. These exotic animals and plants are costing our communities additional money to keep our water and power systems operating. They threaten our commercial and recreational fisheries.

This bill will go a long way toward preventing the spread of existing aquatic nuisance species and the introduction of new species. Among the major accomplishments of this bill are:

Requiring voluntary guidelines will be developed to prevent the spread of all types of aquatic nuisance species by recreational vessels including zebra mussels.

Helping us develop and implement new technologies to prevent ships from further polluting our waters with these creatures.

Helping State and local governments coordinate their efforts in this fight with the various Federal agencies that are involved.

Requiring the Aquatic Nuisance Species Task Force to conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, Honolulu Harbor, Prince William Sound, and other waters that may be highly susceptible to invasion by aquatic nuisance species from ballast water operations and other operations of vessels.

Establishing a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nuisance species from being introduced and spread through ballast water in the Great Lakes and other waters of the United States.

Encouraging the formation of Regional panels to form and participate in activities to control introduction of aquatic nuisance species in their region.

Establishing a competitive research grant program on aquatic nuisance species prevention and control for the Chesapeake Bay, the Gulf of Mexico, the Pacific Coast, and the Atlantic Coast.

And providing continued funding for the 1990 Nonindigenous Aquatic Nuisance Prevention and Control program.

Mr. Speaker, this is a very bipartisan bill. Aquatic Nuisance Species can affect all of our communities. I believe that H.R. 3217 will help prevent other communities around the country from having to incur the costs and environmental damage that we have throughout the Great Lakes. I therefore urge my colleagues to support the passage of H.R. 3217, the National Invasive Species Act of 1996.

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

Mr. BOEHLERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. LATOURETTE], the author and prime mover of this bill.

Mr. LATOURETTE. I very much thank the gentleman from New York [Mr. BOEHLERT] for yielding me this time, and thank him also for those kind words.

Mr. Speaker, I want to add my thanks to Chairman SHUSTER, the chairman of our full Committee on Transportation and Infrastructure, for helping expedite consideration of H.R. 3217 together with the gentleman from Minnesota [Mr. OBERSTAR], the ranking member, and also the ranking members of the other two subcommittees. This would not have been possible without the leadership of the gentleman from New York [Mr. BOEHLERT], our chairman of the Subcommittee on Water Resources and Environment.

I think it is also appropriate, and sometimes we do not take time to thank the staff, not only the staff of the Transportation and Infrastructure Committee but also the staff at the Northeast-Midwest Institute and in particular a woman by the name of Allegra Cangelosi who was talking about zebra mussels and its infestation in the Great Lakes before many other people were even recognizing it as a problem throughout the United States.

I have to praise all of the staff for working to gain a consensus of the interested parties including maritime organizations, environmental organizations, and water users throughout the coastal United States. It is also appropriate to recognize that the Committee on Resources and also the Committee on Science, which had jurisdiction over portions of this legislation, worked hard to get together with the Transportation and Infrastructure staff to present this final version before the House today.

Mr. Speaker, there is an urgent need for this particular piece of legislation. A single aquatic nuisance like the zebra mussel can literally cost our economy billions of dollars. In Cleveland, OH, which is just to the west of the district which I have the honor of representing, the vessel that brings in water from Lake Erie for our drinking water system becomes encrusted and literally costs hundreds of thousands of dollars each year to have the zebra mussels removed. Water users along the Great Lakes experience a similar cost and a similar problem, and no one can accurately predict where or when the next invasion will occur.

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The 1990 Invasive Species Act addressed the invasion of nonindigenous species in the Great Lakes only. This bill expands the scope of the 1990 act to all waters of the United States. However, it does not take the same regulatory approach. Instead of mandating ballast water exchange, NISA begins with voluntary guidelines which will become enforceable only if the Secretary of Transportation determines that the maritime industry is not complying.

This approach gives the benefit of the doubt to the maritime industry's intention to act in good faith while maintaining the teeth of the bill to ensure that the program is taken seriously by all affected parties.

This balanced, moderate approach has broad bipartisan support. There are now 40 cosponsors to this legislation. There are some interests who want an enforceable regulatory program immediately, while there are others who only want voluntary guidelines with no possibility of mandatory regulations. This bill chose to take the middle ground, the compromise approach of requiring mandatory regulations only if they are necessary.

The bill we are considering today includes both amendments passed by the Committee on Transportation and Infrastructure, as well as amendments subsequently worked out in consultation with the House Committees on Resources, Science and Agriculture, with personnel staff, with the Senate staff, and representatives of the maritime industries and Federal agencies.

These amendments represent a compromise position which works to the satisfaction of all involved parties, and I believe has the strongest possibility and probability of being passed into law this Congress.

I sincerely urge my colleagues to support this bill. It takes major steps to address the threat of invasion of aquatic nuisance species into our Nation's waters. Again, I thank the gentleman from New York, Chairman BOEHLERT, for his kind words and all Members for their attention.

Mr. CLEMENT. Mr. Speaker, I yield such time as he may consume to the outstanding gentleman from Minnesota [Mr. OBERSTAR], the ranking Democrat on the Committee on Transportation and Infrastructure, who I have had the opportunity to work with for a number of years.

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

Mr. Speaker, we have got a good bill here, and I am proud to be a cosponsor of it. I appreciate the initiative that the gentleman from Ohio, Mr. LATOURETTE, has taken, in moving the bill initially, the work that the gentleman from New York Chairman BOEHLERT, has undertaken on our committee to move this legislation along, and the support that the gentleman from Pennsylvania, Chairman SHUSTER, has demonstrated, and the work

that our ranking member, the gentleman from the inland waterways, the gentleman from Tennessee, Mr. CLEMENT. It shows the great consensus that we can build and good legislation that can come in response to a very serious problem, a very serious environmental problem, that is a by-product of our enormous waterborne commerce.

It took about 130 years for the first devastating effect of an invasive species to be felt upon the fisheries of the United States, when in the mid-1950's the lake trout fishery on Lake Superior and Lake Michigan plummeted dramatically from 3 million pounds of lake trout caught in a year down to 300,000 pounds over a 2-year period, the light fish fishery plummeted from nearly 2 million pounds to under 250,000 pounds in scarcely a year and a half.

Suddenly, the Great Lakes States, the Nation, realized there was an ecological disaster at hand, and little understanding of what caused it. And we found what caused it, the lamprey eel, first introduced into the Great Lakes through the Welland Canal when it was opened to commerce in 1829, carried in as part of ballast water, discharged into the Great Lakes, and undisturbed, unchallenged by natural predators, it grew to enormous proportions, and then in one 2-year period, devastated a multimillion dollar fishery, now a multibillion dollar fishery.

Forever, we shall have to apply lampreycide to the estuaries of the rivers discharging into the Great Lakes to control this invasive species; we, Canada and the United States together, spending millions of dollars a year, to correct a mistake.

You would think we had learned that the source of that aquatic problem, aquatic disaster, was ballast water from foreign vessels coming into the Great Lakes, but we did not. We did not take sufficient control steps. And then came the zebra mussel, and the Eurasian milfoil, and then the European ruffe, which is now one of the most abundant fish in the harbors of Lake Superior, destroying other species, eating up the forage for other species, crowding them out. And there was a simple way to control this, and that is control the ballast water.

That is what we did on the Great Lakes. It has taken 5 years for our program of ballast water control to take hold in Great Lakes ports and to begin to control these devastating, nonindigenous species.

In the meantime, the problem multiplied on the salt water ports of the United States, as we have learned in the port of San Francisco, where every 12 weeks a new nonindigenous species is introduced into that harbor causing devastation upon the native species in their harbor. And just a few miles from here, 3,000 miles across the continent, in the Chesapeake Bay, we have nonindigenous species introduced into this greatest of all the estuaries in the world, the Chesapeake Bay, where over 100 nonindigenous species have been introduced into those unique waters, where the fresh and the salt water meet and create new forms of life, but not new forms of life introduced by ballast water, because those forms of life are brought in without native controls, without other environmental conditions that control the growth of those species.

So how are we going to deal with this issue? Well, we have here a legislative package that provides a framework for protecting our waters against the spiny water flea, the purple lustrife, the zebra mussel that I have already mentioned, and numbers of others, hundreds of other species that wreak devastation upon our fisheries, upon our water intakes, upon the quality of the waters, not just in the salt water ports, not just in the Chesapeake Bay estuary, not just in the Great Lakes waters themselves. But as fishermen go into the Great Lakes and move their boats from the Great Lakes into inland lakes, they carry these same species with them, and now we find zebra mussel spread all through lakes in Michigan, Wisconsin, and Minnesota, reaching down into the Mississippi River, and some of the zebra mussels are now being found as far south as New Orleans.

We have to use good judgment, learn from the past, and put into effect control measures that are reasonable, that will do the job effectively, and that is what this legislation does. It strikes a balance, as the gentleman from Ohio said so well and the gentleman from New York, not a hard regulatory program right from the outset, although frankly, given the experience we have had in the Great Lakes, I would welcome such a program.

I think we need to get tough right from the outset, because we know what the problem is, we know what to do with it. But this is a balance. We have struck a balance between a totally voluntary program on one hand and a regulatory program on the other.

This legislation expands the scope of the 1990 Great Lakes law that is now coming to be effective in controlling ballast water in the Great Lakes, to apply it to the salt water ports as well, a voluntary national ballast exchange program under which the vessels that operate outside of the exclusive economic zone exchange their ballast, purge the nonindigenous species in the high waters of the oceans, and thereby prevent their introduction into U.S. harbors.

But we also recognize that there are safety problems. The newer vessels in the international ocean trades have chambered ballast control measures. They can empty one chamber, fill it, and then empty another chamber and refill it, without endangering the safety of the vessel. Older vessels do not have that same ability. They have to pump all the ballast out at once on one side and load it with new ballast and then move to another side. So there are safety concerns about the stability of the vessel under those conditions, particularly if you have rough waters.

So the legislation recognizes that the safety of the crew or passengers or safety and stability of the vessel is paramount. So if the master of the vessel determines it would be unsafe to exchange ballast water under existing weather conditions or other conditions, then the judgment of the master of the vessel is paramount and ballast exchange is not required.

But our legislation does say that when a regulatory program is in place, and goodness knows, experience on the Great Lakes means it will take 5 years, then you have to comply with those regulations, but even then the judgment of the master of the vessel is paramount.

The legislation does keep in place our very effective and strong Great Lakes program. It authorizes continued funding for invasive species prevention programs, provides for demonstration programs and new technologies such as filtration for preventing the spread of invasive species in U.S. waters.

Since ballast water exchange is not a feasible control technique once the species are already into the Great Lakes, new technologies are critical to prevent the spread of dangerous species into the Great Lakes.

I just want to address another matter that has been added late in our negotiating process and which I fully support, and that is for our colleague from the great State of Alaska, the chairman of the Committee on Resources, Mr. YOUNG, who has had a lot of experience with crude oil tankers engaged in the coastwide trade.

The exemption included in this legislation is based on our understanding that the current practice of these oil tankers is to discharge their ballast into tanks where the ballast water is treated, thereby avoiding the discharge of nonindigenous species into U.S. salt water harbors. It is our expectation that crude oil tankers will continue their practice of treating their ballast water prior to discharge.

For these and for many other reasons that I will not go into at this point in order to save time, I think we have a good piece of legislation here. It will prevent the introduction of new time bombs into the salt water ports of this country. It will strengthen our ability to prevent introduction of new aquatic time bombs into the Great Lakes and the other inland waters of the United States, and it will give us tools to protect and take control of our own environment.

Mr. Speaker, I urge the passage of this legislation.

Mr. BOEHLERT. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Michigan, Dr. EHLERS, who is an interesting person to speak on this legislation, because he also serves as a member of the Committee on Science. He is a Ph.D., he is a fellow of the American Physical Society, so he brings a scientific background to his analysis of this very important legislation, and he also represents a State that the Great Lakes are very important to.

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding time and for his kind words.

Mr. Speaker, there is a very important environmental principle, first publicized by Garrett Hardin some 30 years ago, that states: "You cannot do just one thing." We as a Nation have had to learn that the hard way. We thought we could simply apply DDT everywhere and eliminate a number of insects in this country. It did not work that way.

First of all, the insects developed resistance and were not eliminated, but secondly, we found the DDT was affecting many organisms other than insects and we eventually had to ban it.

We have also learned that principle with issues, such as the public works projects which we are proud of in this Nation. And one of those projects was opening the St. Lawrence Seaway, which was a boon to my State of Michigan. But my State of Michigan also touches 4 of the 5 Great Lakes. So if anything goes wrong, we are affected more than any other State.

Things did go wrong. You have already heard from the gentleman from Minnesota about the lamprey eel, and now the zebra mussel. The zebra mussel certainly has hit Michigan harder than any other State. Yet when I arrived in the Congress, last year a bill came up which would zero out zebra mussel funding.

This funding was regarded as a laughingstock by those who were proposing zeroing it out. They thought it was another government boondoggle. I told them before this session ended they would probably have zebra mussels in their district. They do indeed now have problems with them.

Mr. Speaker, the problem is serious, and I am very pleased to get up and lend my support to this bill, because this bill is a very good first step at addressing the problems we face with invasive species. It is not just the lamprey eel, and it is not just the zebra mussel, which we now estimate is costing the Nation approximately $2 billion in cleanup costs every year; it is a matter of stopping all the future invasive species of one sort or another that create trouble not just in the Great Lakes, but in many parts of this Nation.

In addition to that, there is an even greater danger looming on the horizon, and that danger is bacterial contamination. Already we have evidence of some cholera appearing in some of the sea water ports of this Nation, and there is little to prevent them from also getting into the fresh water ports.

As you know, that is a disease which we are not used to dealing with in this Nation. It manifests itself primarily in Third World countries. We are not sure how we would address it. Clearly it is important to stop that disease before it even begins.

□ 1730

For those reasons and many more, I am pleased to lend my strong support to this bill and urge that this Congress pass this bill as soon as possible.

Mr. CLEMENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan, Mr. BART STUPAK, who represents three of the five Great Lakes.

Mr. STUPAK. Mr. Speaker, I thank the gentleman from Tennessee [Mr. CLEMENT] for yielding me this time.

Mr. Speaker, the National Invasive Species Act is an extremely important bill that reauthorizes and improves the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to protect the fragile ecosystems of U.S. waterways by further preventing the introduction and spread of aquatic nuisance species.

As the gentleman from Tennessee said, my district does border in part three of the five Great Lakes, and aquatic nuisance species are a threat to our aquatic ecosystem and the overall health of the Great Lakes and our economic vitality as a region.

Aquatic nuisance species are a serious threat to our water systems and the natural balance of our ecosystems. In the Great Lakes region alone, the zebra mussel, the sea lamprey, and the round goby are severely threatening the fishing industry of the Great Lakes and causing millions of dollars in damages to drinking and sewer systems.

A recent study of the Office of Technology Assessment estimates that the power industry alone will spend more than $3 billion over the next 10 years just to control zebra mussel infestation in the water intake systems of the Great Lakes.

These species are not only invading our Great Lakes region but, as has been pointed out, the zebra mussel is rapidly spreading across the United States, having been found in the Mississippi Valley, the Gulf Coast, the Chesapeake Bay, and in locations as far as away as California, both inland and in coastal waters.

H.R. 3217 will provide the vital resources for communities to combat this damaging invasion. Through the implementation of a national voluntary ballast management program for vessels visiting U.S. ports, as the gentleman from Minnesota [Mr. OBERSTAR] has stated, this bill will reduce the threat of aquatic nuisance species by eliminating their mode of transportation.

Mr. Speaker, the National Invasive Species Act will greatly benefit the environment, industry, and the public by authorizing funding for fighting as well as improving the methods to fight the introduction and spread of invasive species in U.S. Waters.

Finally, I want to extend my thank you to the gentleman from Ohio [Mr. LATOURETTE], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Tennessee [Mr. CLEMENT], the gentleman from New York [Mr. BOEHLERT], the gentleman from North Carolina [Mr. COBLE], and the gentleman from Pennsylvania [Mr. BORSKI], for moving forward this important legislation. I urge the passage of H.R. 3217.

Mr. DINGELL. Mr. Speaker, I rise today as a cosponsor and strong supporter of H.R. 3217, the National Invasive Species Act.

As a cochair of the House Great Lakes Task Force and a citizen of the Great Lakes State, I know all too well how much damage can be caused by nonindigenous, or non-native, nuisance species. Even as our Great Lakes have made a tremendous comeback from industrial and other pollution as a result of the Clean Water Act, we continue to see a significant threat from biological invasions. Over the past few decades these invasions have included the sea lamprey, the zebra mussel, and the Eurasian ruffe.

My colleagues may remember the lively floor debate that took place during consideration of the Commerce-Justice-State appropriations bill over funding for sea lamprey control. The sea lamprey is an eel-like creature that attaches itself to lake fish. With federal assistance, we have been somewhat successful at controlling sea lamprey infestation, meaning the preservation of a multi-billion dollar fishery. Despite the best efforts of the Great Lakes Fishery Commission (GLFC), however, the lamprey still exist in the lakes and remain a threat to be controlled.

Most commonly known today is the zebra mussel, which became widely known in 1989 when millions of the mussels became encrusted in the water intake in Monroe, MI, threatening Monroe's water supplies for several days. Since that time, the mussel has clogged other water supply intakes on American and Canadian shores, creating drinking water shortages and public safety hazards. Power plants, industrial cooling operations, and other large water users now spend an average of almost $400,000 per year to keep their investments clear of the zebra mussel.

Since 1989, the zebra mussel has spread throughout much of the nation, threatening waterways from coast to coast. According to Dr. Alfred M. Beeton, Acting Chief Scientist at that National Oceanic and Atmospheric Administration (NOAA), the rapid growth of the zebra mussel has caused not only added business costs for big industry, but for small intakes as well. The filtering activities of the zebra mussel, while increasing water clarity, have taken away desirable algae by 86 percent while helping bring the amount of native

clams in Lake Erie and Lake St. Clair to near-extinction.

As a result of the Great Lakes problem, Congress passed the Non-Indigenous Aquatic Nuisance Prevention and Control Act of 1990 (P.L. 101–646). While this act has been successful, more efforts are needed to help States and communities nationwide control the biological integrity of their waters. The National Invasive Species Act will achieve that by establishing a national ballast plan for ships entering our seaports, lakes, and rivers. It also authorizes greatly needed funding to further research ways to prevent and control the growth of nonindigenous species.

This research will be carried out in part by the Great Lakes Environmental Research Laboratory (GLERL) in Ann Arbor, MI, in cooperation with several universities under the National Sea Grant College Program and other agencies.

Mr. Speaker, the National Invasive Species Act provides necessary help to States, cities, and industry while helping protect our native plant, animal and aquatic species. I urge my colleagues to support its passage.

Mr. UNDERWOOD. Mr. Speaker, I rise in favor of H.R. 3217, the National Invasive Species Act of 1996. This bill would reauthorize funds for the Brown Tree Snake Control Program which seeks to reduce the adverse effects of the nonindigenous brown tree snake to Guam as well as prevent the spread of the species to other outlying areas.

Brown tree snakes have long been identified as the cause of Guam's diminishing bird population and the extinction of some of the island's native species. Due to the lack of natural predators and to the ideal environment Guam provides for the propagation of the snakes, the brown tree snake has continually wreaked havoc on Guam's wildlife. If this present trend continues, we can soon expect the extinction of more of Guam's native birds and the introduction of this pest to snakeless areas such as Hawaii.

Controlling the snake population on Guam is the best approach towards wildlife preservation. In a misguided attempt to save Guam's birds, the U.S. Fish and Wildlife Service has imposed a wildlife refuge in the hopes that such a refuge would reverse the trend of a diminishing bird population. This notion is flawed at best. We know for a fact that the nonindigenous brown tree snakes must be taken out of the habitat in order for birds to thrive. Guam supports saving its endangered species but this must be done through the U.S. Fish and Wildlife Service controlling the brown tree snake population and not by them acquiring more land. After all, a wildlife refuge would only serve to gather the island's remaining bird species in an area that could easily be overrun by the brown tree snake. In a couple of years, this proposed bird sanctuary would surely be nothing more than a snakepit taken right out of an Indiana Jones movie.

The funds reauthorized by H.R. 3217 offer an alternative that imposes the least burden on Guam's limited resources and gives Guam's birds the best chance at survival. Providing for the development of programs to control the snake population also spares Guam's neighbors from the devastation brought about by the brown tree snake. Let us not allow harmful nonindigenous species to take over our fragile ecosystems. I urge my colleagues to support H.R. 3217.

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

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

The SPEAKER pro tempore (Mr. GUNDERSON). The question is on the motion offered by the gentleman from New York [Mr. BOEHLERT] that the House suspend the rules and pass the bill, H.R. 3217, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOEHLERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I may include extraneous material 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.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2202, ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

Mr. QUILLEN from the Committee on Rules, submitted a privileged report (Report No. 104–829) on the resolution (H. Res. 528) waiving points of order against the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3259, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. QUILLEN, from the Committee on Rules, submitted a privileged report (Rept. No. 104–830) on the resolution (H. Res. 529) waiving points of order against the conference report to accompany the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 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, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 4(b) OF RULE XI WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 525 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 525

Resolved, That the requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported from that committee for the remainder of the second session of the One Hundred Fourth Congress providing for consideration or disposition of any of the following:

(1) A bill or joint resolution making general appropriations for the fiscal year ending September 30, 1997, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(2) A bill or joint resolution that includes provisions making continuing appropriations for fiscal year 1997, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

SEC. 2. It shall be in order at any time for the remainder of the second session of the One Hundred Fourth Congress for the Speaker to entertain motions to suspend the rules, provided that the object of any such motion is announced from the floor at least one hour before the motion is offered. In scheduling the consideration of legislation under this authority, the Speaker or his designee shall consult with the minority leader or his designee.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for the purpose of debate only.

(Mr. SOLOMON asked and was given permission to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, House Resolution 525 is the customary rule we consider toward the end of a session to permit the House to expedite its business and adjourn. The rule does two things.

First, it permits same day consideration of special rules for the consideration of general and continuing appropriations measures, amendments thereto or conference reports thereon.

Second, it makes in order to consider motions to suspend the rules on any day during the remainder of the session, provided 1 hour's advance notice is given from the floor and the Speaker or his designee consults with the minority leader or his designee.

Mr. Speaker, as I mentioned in the Committee on Rules last Thursday when we considered this rule, I am not a big advocate of such expedited procedure rules such as this. I was not when I was the minority leader and I still am not now that I am in the majority.

Members still have a right to know what it is that they are being asked to vote on, notwithstanding the desire to complete our business and return home to our families and to our constituents in the remaining 6 weeks before the upcoming election.

Last Thursday in the Committee on Rules I expressed my agreement with the gentleman from Massachusetts [Mr. MOAKLEY] that these special rules for expedited procedures on appropriations and suspension measures should be used sparingly and they should be used judiciously, and they are going to be if I have anything to say about it, and I will.

I indicated my support for giving Members the maximum possible notice of the scheduling of any matters under these special procedures and the opportunity to review the text of legislation they will be voting on.

Last Thursday, in announcing the program for this week on the floor, the majority leader echoed those same sentiments, and he expressed the hope that it would not even be necessary to use the extra suspension days afforded by this resolution that we are considering right now.

If it does become necessary to utilize these special suspension days, this resolution does provide some safeguards, including at least 1 hour's advance notice of any suspension to be scheduled and also the required consultation between the Speaker and the minority leader or their designees on the scheduling of such suspension bills.

Mr. Speaker, I think it is also worth pointing out that there are three House rules, and if Members are listening in their offices, they ought to pay attention to this, there are three House rules that already exist that are of a similar nature as their resolution but are impractical, in effect, because of how they are worded. Let me explain that.

The first is found in House and rule XI, clause 4(b), which requires a two-thirds vote on the same day consideration of rules from the Committee on Rules. The rule goes on, however, to say that, and I quote, "this provision shall not apply during the last 3 days of the session." During the last 3 days of the session. When is that?

The problem with that is that we do not really know what are the last 3 days of the session until both Houses have passed a sine die adjournment resolution that contains a date certain for adjournment. We all hope that the next 3 days will be the last of this session, but we do not know that for certain.

As Yogi Berra put it one time, "It ain't over till it's over," and I wish I knew when it was going to be over. I hope it is going to be over this Friday.

Now, the second rule is House rule XXVII, which deals with consideration of measures under the suspension of the rules procedure. Clause 1 of that rule says that it is in order for the Speaker to entertain motions to suspend the rules, and I quote, "on Mondays and Tuesdays, and during the last 6 days of the session."

But, again, we do not know yet which are the last 6 days of the session without an adjournment resolution in place. Is it going to be tomorrow, Thursday, Friday, Saturday, Sunday, Monday? We just do not know that, and yet we have to expedite these matters, and that is why we have this kind of rule on the floor right now.

Finally, rule XXVIII, which deals with conference reports, requires in clause 2(a) that it is not in order to consider conference reports until the 3d day of their availability. That is what the rule says. But it goes on to say, and I quote again, "the preceding provisions do not apply during the last 6 days of the session."

□ 1745

Think about that.

In conclusion, Mr. Speaker, I think it can be seen from the standing House rules that I have just quoted that this resolution is not really a marked departure from those rules. It only makes such rules a practical working reality, whereas now they are not due to the lack of an adopted adjournment resolution. If you want to go ahead and adopt a resolution, that is fine with me; but absent that, we still have to do the people's work. We have to get these appropriations conference reports passed into law.

Mr. Speaker, let me conclude by reiterating my earlier expressed hope that these special procedures are used sparingly, that they are used judicially so that Members will have an opportunity to consider any measure brought under these procedures in an informed and deliberative manner.

This rule was adopted by the Committee on Rules by voice vote, though it was not a unanimous vote. I appreciate the cooperation of our ranking minority member [Mr. MOAKLEY] in allowing us to schedule this as an emergency matter on such short notice as last Thursday. He was trying to cooperate so that we can get out of here. I hope this will enable us to complete the work of this historic Congress this week and return to our constituents with a record of accomplishment of which I personally am very proud, particularly with the line item veto that we finally, once and for all, had signed into law and is now the law of the land.

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

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from New York [Mr. SOLOMON] for yielding me the customary half hour, and I yield myself such time as I may consume.

Mr. Speaker, this bill is a very very bad idea.

It gives the Republican leadership carte blanche to bring up just about anything they want just about whenever they want.

It is a very powerful tool and I urge my colleagues to oppose it.

Now I am not saying, Mr. Speaker, that martial law is always a bad idea, in fact when a session is coming to a close and a lot of bills need to be finished it can be useful on a short-term case-by-case basis, let me repeat that Mr. Speaker, martial law can be useful on a short term case-by-case basis, in which bills are specified by name.

But martial law is very dangerous when applied as a blanket over the end of the session.

In fact, last time the Republicans imposed martial law it lasted for 4 months from November 15 to March 15 during that time the U.S. Government was closed twice for a total of 27 days.

Mr. Speaker, martial law was a bad idea then and it's a bad idea now.

It takes away the normal protection afforded the minority and it keeps Members from adequately looking bills over before they vote on them. We have no way to make sure that bills are what they appear to be and that can be serious.

Under this rule, the Republican leadership can bring up a bill under suspension of the rules for the remainder of this session. All they need to do is give 1 hour's notice.

Mr. Speaker, this can be a very dangerous way of passing legislation, anything could be stuck in these suspension bills and, in all likelihood, Members won't be the wiser until it's too late.

This rule which suspends many of the protections of the House can lead to serious abuses of the democratic process and it can further undermine the credibility of the Republican leadership.

I urge my colleagues to defeat this rule.

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

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

Mr. Speaker, everybody knows I dearly love my counterpart over on the Committee on Rules, JOE MOAKLEY. He

is a delightful fellow, but I just have to take exception with some of the things he said.

I am looking at an article in what is called the Hill newspaper, I guess it is Roll Call. It is entitled, "In Adjournment Push, Martial Law Declared." It is written by a Jennifer Bradley. She quotes Mr. MOAKLEY at length in this article. She does not bother to quote me. Otherwise, I would have been glad to set the record straight.

Let me set that record straight, Mr. Speaker, because there really has been some disinformation circulated to the popular press by some under-informed staff on the other side of the aisle, which my good friend, Mr. MOAKLEY, seems to be espousing some of it right now.

I think it is important to set the record straight, since the press did not bother to check with the majority of our committee on the facts, either with me or with my chief of staff. It was claimed by an unnamed Democrat staff source quoted in yesterday's Roll Call that there are "significant differences between this martial law rule and one the Democrats pushed through in previous Congresses."

So let us get the record straight. The staffer is quoted as saying that the main differences between the time it occurred before and now is that before it was only for one bill. This martial law rule will go on until the end of the session. That is what this staffer said.

The Democrat staffer concluded, and I quote again from this article: "It's sort of a blanket authority for the scariest leadership on earth."

Boy, those are strong statements. I would just like to invite that staffer to visit places like Iraq or Iran or Libya or Cuba, to name just a few of the other countries, before condemning America in such harsh terms.

The fact is, first of all, Mr. Speaker, that this two-thirds waiver for same day consideration of a rule is not a blanket one. It only applies to rules for continuing or general appropriation bills and conference reports, and we will probably have only two or three such appropriation rules in the remainder of the session. That is all that is left out there.

Second, the fact is that in the past Congresses, the Democrats granted such rules for multiple classes or numbers of bills, six in the 101st Congress and three in the 102d Congress. Who was chairman of the Committee on Rules at that time? My good friend, JOE MOAKLEY. It came out under his leadership.

Third, the Democrats also had rules for extra suspension days in past Congresses that were not confined to single bills, one in the 101st Congress and three in the 102d Congress.

And fourth, Mr. Speaker, the number of expedited procedures or suspension rules granted in this Congress, 11 with today's rule, is identical to the number of two-thirds waiver or suspension rules granted by the Democrats in the last 2 years' Congress. Again, who was the chairman of the Committee on Rules? The gentleman who is standing up here complaining now, the chairman of the Committee on Rules, Mr. JOSEPH MOAKLEY.

In the 101st and 102d Congresses, there were nine such special rules in each Congress that either waived the two-thirdss rule or created extra suspension days, which is really what we are going here on a very, very limited basis.

At the conclusion of my remarks, I will include a list of such special rules in each of the last three Congresses, plus the list for this Congress, Mr. Speaker. I would hope my colleagues on the other side of the aisle would take greater care in doing their own research before they embrace uninformed and sloppy staff reports, because that is really what brought about this Roll Call article.

The fact is, Mr. Speaker, we are today utilizing the same traditional authorities granted by this House in previous Congresses to complete our work on time. There is nothing new, let alone scary about it, unless you are a paranoid, delusional, amnesiac of some kind, and I do not think anybody really is here.

Let us put an end to these exaggerated pre-Halloween scare tactics, face up to the facts and reality of both the past and the present and let us get on with completing the people's business. The people want us out of here, Mr. Speaker. They want us back home to campaign in the last 5 or 6 weeks of this election.

Again, I include for the RECORD the proof of what I have just cited on the 101st Congress, the 102d Congress, 103d Congress, and the 104th Congress:

EXPEDITED PROCEDURE AND EXTRA SUSPENSION DAY RULES REPORTED BY THE RULES COMMITTEE: 101ST–104TH CONGRESSES (1989–96)

101st Congress, 1989–90: (9 rules).

H. Res. 417—Extra suspension day (flag desecration constitutional amendment).

H. Res. 482—Two-thirds waiver (budget resolution, CR).

H. Res. 489—Two-thirds waiver (budget resolution, CR, debt limit).

H. Res. 497—Two-thirds waiver (budget resolution, CR, debt limit).

H. Res. 512—Two-thirds waiver (approps, reconciliation, debt limit).

H. Res. 517—Two-thirds waiver (approps, reconciliation, debt limit).

H. Res. 527—Two-thirds waiver (approps bills, reconciliation, debt limit).

H. Res. 533—Two-thirds waiver (Clean Air Act).

H. Res. 534—Extra suspension days (general).

102nd Congress, 1991–92: (9 rules).

H. Res. 294—Two-thirds waiver (7 specified bills) & extra suspension days (general).

H. Res. 304—Two-thirds waiver (MFN for China conf. rept.).

H. Res. 500—Two-thirds waiver (any rail strike bills).

H. Res. 507—Two-thirds waiver (unemployment comp conf. rept.).

H. Res. 591—Two-thirds waiver (approps bills), conf. rept. waivers, and extra suspension days.

H. Res. 597—Two-thirds waiver (auto theft bill).

H. Res. 425—Extra suspension day (Senate amendment to Older Americans Act).

H. Res. 577—Extra suspension days (MFN for Romania).

H. Res. 591—Two-thirds waiver (approps), conf. rept. waivers, extra suspension days (general).

103rd Congress, 1993–94: (11 rules).

H. Res. 61—Two-thirds waiver (family & medical leave act).

H. Res. 111—Two-thirds waiver (unemployment comp).

H. Res. 142—Two-thirds waiver (budget resolution).

H. Res. 150—Two-thirds waiver (emergency approps).

H. Res. 153—Two-thirds waiver (emergency approps).

H. Res. 322—Two-thirds waiver (Brady bill).

H. Res. 356—Two-thirds waiver (emergency approps).

H. Res. 395—Two-thirds waiver (crime bill).

H. Res. 441—Two-thirds waiver (Foreign ops approps).

H. Res. 522—Two-thirds waiver (Crime bill).

H. Res. 397—Extra suspension days (lobby reform).

104th Congress, 1995–96: (11 rules).

H. Res. 260—Two-thirds waiver (CR, debt limit).

H. Res. 265—Two-thirds waiver (CR).

H. Res. 275—Extra suspension days (general).

H. Res. 276—Two-thirds waiver (reconciliation, approps).

H. Res. 297—Two-thirds waiver (approps, debt limit, reconciliation, Bosnia bill).

H. Res. 342—Two-thirds waiver (approps, debt limit).

H. Res. 386—Two-thirds waiver (approps, debt limit).

H. Res. 412—Two-thirds waiver (approps).

H. Res. 492—Two-thirds waiver (reconciliation).

H. Res. 500—Two-thirds waiver (health care portability bill).

H. Res. 525—Two-thirds waiver (approps) and extra suspension days (general).

Sources: Rules Committee Activity Reports 101st–103rd Congresses; Rules Committee Calendar & House Calendar, 104th Congress.

EXPEDITED PROCEDURE—⅔ WAIVER RULES, 104TH CONGRESS

(Compiled by Rules Committee Majority Staff)

In the 104th Congress, the Rules Committee has reported eleven resolutions allowing for same-day consideration of certain rules. The authority granted by these resolutions has been utilized on twelve occasions.

In the first session, the Rules Committee reported four resolutions allowing for same-day consideration of certain resolutions from the Committee. The authority granted by these resolutions was utilized on five occasions.

In the second session to date, the Rules Committee has reported seven resolutions allowing for same-day consideration of certain resolutions from the Committee. The authority granted was utilized on seven occasions. Two of the resolutions allowed same-day consideration for rules dealing with specific bills. In both of these cases, the authority granted was utilized.

First Session

H. Res. 260, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same day consideration of rules providing for the consideration of the following: (1) any measure making further continuing appropriations; (2) any measure including provisions increasing or waiving the public debt limit for resolutions reported before November 13, 1995.

Disposed of: Reported on November 9, 1995 (House Report 104–330). Tabled by unanimous consent on December 6, 1995.

Authority Utilized: No.

H. Res. 265, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same-day consideration of rules providing for the consideration of any measure making further continuing appropriations for resolutions reported before November 23, 1995.

Disposed of: Adopted by the House on November 15, 1995 by voice vote.

Authority Utilized: (1) H. Res. 270, providing for consideration of H.J. Res. 122, making further continuing appropriations for FY 1996. Reported from the Rules Committee on November 15, 1995. Adopted by the House on November 15, 1995 by a vote of 249–176.

H. Res. 276, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same-day consideration of rules providing for the consideration of (1) H.R. 2491, budget reconciliation or (2) any measure making general appropriations for FY 1996 for resolutions reported before November 23, 1995.

Disposed of: Adopted by the House by voice vote on November 18, 1995.

Authority Utilized: (1) H. Res. 279, providing for consideration of the Senate amendment to H.R. 2491, budget reconciliation. Reported from the Rules Committee on November 18, 1995. Adopted by the House on November 18, 1995 by voice vote.

H. Res. 297, waiving a requirement of clause 4(b) of rule XI with respect to consideration of certain resolutions reported from the Committee on Rules.

Provisions: Allowed for same-day consideration of rules providing for consideration of (1) general appropriations measures for FY 1996; (2) a bill or joint resolution making further continuing appropriations for FY 1996; (3) a bill or joint resolution increasing or waiving the public debt limit; (4) a bill providing for a balanced budget by 2002; (5) a bill or resolution relating to Bosnia for resolutions reported during the remainder of the first session of the 104th Congress.

Disposed of: Adopted by the House on December 13, 1995 by a vote of 230–186.

Authority Utilized: (1) H. Res. 301, waiving points of order against the conference report to accompany H.R. 1977, Department of Interior and related agencies appropriations for FY 1996. Reported from the Rules Committee on December 13, 1995. Adopted by the House on December 13, 1995 by a vote of 231–188.

(2) H. Res. 304, providing for debate and consideration of three measures relating to Bosnia. Reported from the Rules Committee on December 13, 1995. Adopted by the House no December 13, 1995 by a vote of 357–70.

(3) H. Res. 317, providing for consideration of H.J. Res. 134, making further continuing appropriations for FY 1996. Reported from the Rules Committee on December 20, 1995. Adopted by the House on December 20, 1995 by a vote of 238–172.

Second Session

H. Res. 330, authorizing the Speaker to declare recesses subject to the call of the Chair, and waiving a requirement of clause 4(b) of rule XI with respect to certain resolutions reported from the Rules Committee.

Provisions: The rule allowed the Speaker to declare recesses subject to the call of the Chair and allowed for same-day consideration of rules providing for consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution making further continuing appropriations for FY1996; (3) a bill or joint resolution that includes provisions increasing or waiving the public debt limit; (4) a bill to provide for a balanced budget by 2002 for resolutions reported by the Rules Committee before January 24, 1996.

Disposed of: Adopted by the House on January 5, 1996 by a vote of 224–190.

Authority Utilized: (1) H. Res. 336, providing for disposition of the Senate amendment to H.J. Res. 134, making further continuing appropriations for FY1996. Reported from the Rules Committee on January 5, 1996. Passed the House on January 5, 1996 by voice vote.

(2) H. Res. 338, providing for the disposition of the Senate amendment to H.R. 1358, to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts. Reported from Rules on January 5, 1996. Adopted by the House on January 5, 1996.

H. Res. 342, waiving a requirement of clause 4(b) of rule XI with respect to certain resolutions reported by the Rules Committee.

Provisions: Allowed for same-day consideration of rules providing for consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution making further continuing appropriations for FY1996; (3) a bill or joint resolution including provisions increasing or waiving the public debt limit for resolutions reported before March 16, 1996.

Disposed of: Adopted by the House on January 25, 1996 by a vote of 229–191.

Authority Utilized: (1) H. Res. 351, waiving points of order against the conference report to accompany H.R. 2546, District of Columbia Appropriations for FY1996. Reported from the Rules Committee on January 31, 1996. Adopted by the House on January 31, 1996 by voice vote.

H. Res. 355, providing for consideration of H.R. 2924, to guarantee the timely payment of social security benefits in March 1996. Reported from the Rules Committee on February 1, 1996. Adopted by the House on February 1, 1996 by a voice vote.

H. Res. 386, providing for consideration of H.J. Res. 165, making further continuing appropriations for FY1996, and waiving a requirement of clause 4(b) of rule XI with respect to certain resolutions reported from the Rules Committee.

Provisions: Provides for consideration of the joint resolution under a closed rule, with one hour of general debate and one motion to recommit which may include instructions if offered by the Minority Leader or his designee. The rule allows for same-day consideration of rules providing for the consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution making further continuing appropriations for FY1996; (3) a bill or joint resolution that includes provisions increasing or waiving the public debt limit for resolutions reported before April 1, 1996.

Disposed of: Adopted by the House on March 21, 1996 by a vote of 237–183.

Authority Utilized: Not used.

H. Res. 412, waiving a requirement of clause 4(b) of Rule XI with respect to the same day consideration of certain resolutions reported by the Rules Committee.

Provisions: Allows for same-day consideration of rules providing for consideration of (1) a bill making general appropriations for FY1996; (2) a bill or joint resolution including provisions making further continuing appropriations for FY1996 for resolutions reported before April 27, 1996.

Disposed of: Adopted by the House on April 25, 1996 by a vote of 286–135.

Authority Utilized: (1) H. Res. 415, waiving points of order against the conference report to accompany H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget. Reported from the Rules Committee on April 25, 1996. Adopted by the House on April 25, 1996 by voice vote.

H. Res. 492 (Welfare Only), waiving a requirement of clause 4(b) of Rule XI with respect to the same day consideration of a resolution reported by the Rules Committee.

Provisions: Allows for same-day consideration of a rule providing for consideration or disposition of a conference report to accompany H.R. 3734, the Personal Responsibility Act of 1996 for rules reported before August 1, 1996.

Disposed of: Adopted by the House on July 31, 1996 by voice vote.

Authority Utilized: (1) H. Res. 495, waiving points of order against the conference report to accompany H.R. 3734, the Personal Responsibility Act of 1996. Reported from the Rules Committee on July 31, 1996. Passed the House on July 31, 1996 by a vote of 281–137.

H. Res. 500 (Health Care Only), waiving a requirement of clause 4(b) of Rule XI with respect to the same-day consideration of a resolution reported by the Rules Committee.

Provisions: Allows for same day consideration of a rule providing for the consideration or disposition of a conference report to accompany H.R. 3103, the Health Insurance Portability and Accountability Act, for rules reported before August 2, 1996.

Disposed of: Adopted by the House on August 1, 1996 by voice vote.

Authority Utilized: (1) H. Res. 502, waiving points of order against the conference report to accompany H.R. 3103, the Health Insurance Portability and Accountability Act. Reported from the Rules Committee on August 1, 1996. Passed the House on August 1, 1996 by voice vote.

H. Res. 525, waiving a requirement of clause 4(b) of Rule XI with respect to same day consideration of certain resolutions reported by the Rules Committee, and for other purposes.

Provisions: Allows same day consideration of rules reported by the Rules Committee providing for consideration of any measures, amendments thereto, conference reports thereon, or amendments reported in disagreement thereon that (1) make general appropriations for FY 1977 or (2) make continuing appropriations for FY1997. H. Res. 525 also makes it in order to consider motions to suspend the rules on any day during the remainder of the second session of the 104th Congress.

Disposed of: Reported by the Rules Committee on September 19, 1996.

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

Mr. MOAKLEY. Mr. Speaker, I just want to clear one thing up. The term "scariest" was not my statement. I did not say it was the scariest.

Mr. Speaker, I submit for the RECORD, Martial Law in the 104th Congress, some of the things it will cover:

MARTIAL LAW—104TH CONGRESS

Martial Law	Duration	Purpose	Rule	Bill
H. Res. 265 (11/15)	11/15–11/23	CR's	H. Res. 270 (11/15)	H.J. Res. 122 (CR).
H. Res. 276 (11/18)	11/18/–11/23	Recon./Gen apprs	H. Res. 279 (11/18)	H.R. 2491 (Recon).
H. Res. 297 12/13	12/13–1/3	Gen Apprs/Crs	H. Res. 301 (12/13)	H. R. 1977
		Debt Limit/Bal	H. Res. 304 (12/13)	Int Appr JC Rpt
		Budget/Bosnia	H. Res. 317 (12/20)	H.R.2770 (Bos)
				H.Res 302 (Bos)
				H.Res. 306 (Bos)
				H.J. Res 134 (CR)
H. Res. 330 (1/15)	1/5–1/24	Gen Apprs/Crs	H. Res. 334 (1/5)	H.R. 1643 (CR)
		Debt Limit/Bal.	H. Res. 336 (1/5)	H.J. Res. 134 (CR)
		Budget/Recess Auth.	H. Res 338 (1/5)	H.R. 1358 (CR)
H. Res. 342 (1/25)	1/25–3/15	Gen. Apprs/Crs	H. Res. 351 (1/31)	H.R. 2546 (DC Approps Crpt).
		Debt Limit		
H. Res. 412	4/25–4/27	Gen Apprs/Crs	H. Res. 415	H.R. 3019 (CR).
H. Res. 492	7/31/96	Reconciliation Conf. Rept	H. Res. 495	H.R. 3734 Recon. Con Rpt.
H. Res. 500	8/1/96	HealthCare Conf. Rpt	H. Res. 502	H.R. 3103 (Health Conf Rpt.
H. Res. 525	9/24–/96	Gen Apprs/Crs		

In the 104th Congress, the House conducted business continuously under martial law for four months (November 15 through March 15).

7 of the 9 measures considered under martial law were continuing resolutions or appropriations conference reports needed to stave off government shutdowns caused by the majority's failure to complete appropriations before the end of the fiscal year.

Most martial law resolutions in the 104th Congress have applied to classes of bills (e.g., general appropriations, continuing resolutions, debt limit, etc.) rather than to a specific bill.

By contrast, in the 103rd Congress, the House conducted business under martial law 5 days. Of the 5 resolutions adopted by the House, each was effective for a period of one day and applied to one specific bill or conference report.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from Michigan [Mr. BONIOR], minority whip.

Mr. BONIOR. Mr. Speaker, I thank my ranking member and my friend, the gentleman from Massachusetts, JOE MOAKLEY, for yielding me the time. Soon to be chairman.

Mr. Speaker, I come to the floor this evening to talk about this martial law rule, and what this rule does is gives the Speaker extraordinary power to bring up virtually any legislation, at any time, without any advance notice.

Now, have we not used this same procedure in previous Congresses? Yes, we have. But we have done it on a case-by-case basis and we have done it sparingly and judicially, to borrow the words of my friend from New York.

Under the Republican control of Congress, martial law has become a routine procedure, a routine procedure to block amendments and shut down debate. During last year's Government shutdown, the House operated under this martial law procedure for 4 continuous months, a third of the year.

This resolution allows the Speaker to consider any legislation under suspension of the rules, procedures at any time it allows the appropriation bills to be brought to the floor without the 1-day layover required under the House rules so that Members can become familiar with what is being brought down from the Committee on Rules. I lay this out because I wanted to talk about a pattern that has been set here.

Even before this historic Congress began, after the 1994 elections, one of the first things that the new majority did was try to move the Ethics Committee from the House Administration Committee, which is now known as the Committee on House Oversight; from the Ethics Committee to the House Administration Committee, which is a partisan committee. So what they were trying to do is shut down the voices on a very important part of our business here, the ethics of the Members.

The second thing they did, before we even hit the gavel to begin this new Congress and this historic Congress, what they did was to shut down the various groups in this institution that were trying to raise their voice on behalf of women. The Environmental Caucus, cannot have that; Women's Caucus, cannot have that; the Hispanic Caucus, cannot have that. Shut it down. The African American Caucus, Black Caucus, shut that down. The Democratic Study Group, which was the research arm for this institution, bipartisan in nature, mostly Democratically used but used by some Republicans, shut that down. So there has been a constant narrowing and winnowing of the ability of Members to speak clearly and to have their voices heard in this institution.

Then they went ahead and shut down the Government in order to cut Medicare; did it twice. Of course, now we are in the last week, maybe 10 days, whatever, of this session, and pending and hanging over the head of this institution is this cloud about the ethics report done by the outside counsel, Mr. Cole. So now today they come to the floor and they want to give the Speaker extraordinary powers to move legislation and to close this place up without having this released.

This is the Speaker's hometown paper, the Atlanta Constitution. In their editorial, Release the Gingrich Report, $500,000 of taxpayer money was spent to put that report together.

□ 1800

Mr. Speaker, I think it is a shame that this Congress is about to adjourn without the American people knowing what is in that report.

Listen to what the gentleman from Georgia, NEWT GINGRICH, said back in 1989 when a similar situation existed for the existing Speaker and a report was being done. He said this:

> I think it's vital that we establish as a Congress our commitment to publish that report and to release those documents so that the country can judge whether or not the man second in line to be President, the Speaker of the House, should be in that position.

He went on to say, "I cannot imagine going to the country telling them, 'We've got a $1.6 million report, and, by the way, there's nothing in it, but you can't see it.'" And that is exactly what he is telling us now: There is a $500,000 report, half-a-million-dollar report, that the outside counsel has put together, but you cannot see it.

What are they trying to hide? What are they trying to hide? If my colleagues read the Atlanta Constitution, the Hartford Current, the New York Times, and the papers all across this country who have looked into this, they will say what they are trying to hide: Serious violations of law, tax law, corruption, tax fraud.

That report would have been released the minute it hit the hands of the Republicans if it would have been positive and exonerated the Speaker. It is being kept under lock and key because there is something they do not want the American people of see.

Mr. Speaker, we have a right to see it.

This type of martial law resolution that we have before us today will impede our ability to get a fair and an equitable treatment of something that is vitally important not only to the country, but to this institution. We must lift the cloud on this institution.

So I urge my colleagues to vote no on this resolution, to vote yes on Mr. LEWIS's resolution, which will come up later, which will release the report of the outside counsel.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I was hesitant to rise to make a point of order against the gentleman from Michigan [Mr. BONIOR], referring to matters pending before the Committee on Standards of Official Conduct which is against the rules of the House. I did not do that out of respect for him because he did not carry on. But we ought to all pay attention to the rules of the House.

Mr. Speaker, I would also say to the previous speaker, the minority whip, whom I have great respect for, he is certainly a respected member of this body, but I really worry about his memory. He is, in fact, a member—or was, I should say—a member of the Committee on Rules of the previous Congress, and he voted for all of these suspensions of the rules on these suspension days, and, as my colleagues know, they were very, very serious matters.

One was a two-thirds waiver for the Family and Medical Leave Act; another, a two-thirds waiver for the unemployment compensation bill; a two-thirds waiver for the budget resolution; a two-thirds waiver for emergency appropriations for the Brady bill, for the crime bill, for the foreign operations appropriations, lobby reform.

As my colleagues know, I do not think we really ought to get up here and criticize each other for trying to expedite the measures of the House.

Second, I would just point out something that was said by Norman J. Ornstein, a political scientist, discussing the 104th Congress in rollcall back just a couple of days ago. He said, "The most significant Congress in a generation. This is a plenty respectable output. Indeed, it ranks with the top Congresses of the past 30 years."

Mr. Speaker, that is exactly what we are doing tonight. We are trying to expedite these procedures. We do not want to leave business undone, but we do want to get out of here and go back home where our constituents want us. They do not want us inside this beltway.

So let us get on with the rule, enact it, and do the people's work.

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

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

Mr. Speaker, I listened with close attention to my dear friend from New York, and he is right. He went through one by one the Family Leave Act, the suspensions. But each one of those martial law things was for specific bills. That is the difference. We do not mind martial law, but this is a blanket cover. We do not know what is going to be pulled out from underneath this blanket, and that is the only difference I am trying to make.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, as my colleagues know, we have urged the Speaker, the gentleman from New York, Mr. SOLOMON, and the gentlewoman from Connecticut, the chairwoman of the Committee on Standards of Official Conduct, NANCY "STONEWALL" JOHNSON, to release the report from the special counsel. We have heard from the Republicans and the Speaker himself that he has been exonerated for all these other complaints and allegations against him. He never mentions, he never mentions that he has been found guilty by the Committee on Standards of Official Conduct on other occasions and investigations.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I have a point of order, and I hate to do that to my friend.

Mr. VOLKMER. The gentleman from New York is not in order, he is going to find out.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, the gentleman is referring to matters before the Committee on Standards of Official Conduct, and that is against the House rules. We need to stay to the germaneness of this expedited procedure.

Mr. VOLKMER. Mr. Speaker, I would like to be heard on the point of order, if I may.

The SPEAKER pro tempore. The Chair will hear the gentleman from Missouri [Mr. VOLKMER] on the point of order.

Mr. VOLKMER. My earlier comments were perhaps not in order, but where the gentleman has interjected himself, I am speaking of matters that already have been resolved by the Committee on Standards of Official Conduct and are no longer pending before the Committee on Standards of Official Conduct.

Mr. SOLOMON. Mr. Speaker, the exhibit speaks to pending matters before the Committee on Standards of Official Conduct.

The SPEAKER pro tempore. The Chair is prepared to rule, and the question is whether the matters are properly pending before the House. The issue is not just whether they are now or only at a prior time were ever before the committee, since the matters are not now properly before the House as a question of privilege, and debate on those matters, therefore, is not in order at this point.

Mr. VOLKMER. Is the gentleman saying——

Mr. SOLOMON. Could we have the exhibit removed?

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I would like to make a parliamentary inquiry of the Chair.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Matters that have been resolved by the Committee on Standards of Official Conduct and are no longer pending before the Committee on Standards of Official Conduct, the Chair is saying, cannot be discussed on the floor of the House?

The SPEAKER pro tempore. That is correct, so long as that Member remains a sitting Member.

Mr. VOLKMER. Well, Mr. Speaker, now we cannot even talk about all the guilty things that the Committee on Standards of Official Conduct found the Speaker guilty of.

The SPEAKER pro tempore. The Chair would ask that the gentleman proceed in order and remind the gentleman that Members should refrain from discussing official conduct cases.

Mr. VOLKMER. Well, Mr. Speaker, now it appears that the Speaker can get up and say that, "I have been exonerated by the Committee on Standards of Official Conduct from all these charges," and I cannot stand down here and correct the record. Boy, oh boy.

We all know that the Committee on Standards of Official Conduct found the Speaker guilty of allowing his senior GOPAC official to act as chief of staff in the Speaker's office. We also know that the Committee on Standards of Official Conduct found the Speaker guilty of using the House floor to sell videotapes of his own lectures through a 1-800 scheme. That is all public record.

We also know that the Committee on Standards of Official Conduct found the Speaker guilty of using the House floor to advertise political activities of GOPAC—on this floor, using it as a political forum. They found him guilty. He also was found guilty of telecommunication entrepreneur Don Jones to use the Speaker's office to conduct personal business. Just think of that: using the Speaker's office to conduct person business. Found guilty, misuse of congressional resources to advertise, promote a Caribbean cruise sponsored by a private company. Found guilty. Found guilty. Failure to disclose financial transactions as required by law.

Yes, my colleagues. The Speaker—not guilty of all charges.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, clause 14 says that we have to be germane to the issue. I would make a point of order that the gentleman's delivery is not germane to this issue.

The SPEAKER pro tempore. The gentleman's point of order is well taken, and the Chair would ask the gentleman from Missouri [Mr. VOLKMER] to be in order.

Mr. WATT of North Carolina. Mr. Speaker, I would like to be heard on the point of order, please.

The SPEAKER pro tempore. Is the gentleman raising a new point of order?

Mr. WATT of North Carolina. I am seeking to be recognized on the gentleman's point of order and whether it is appropriate.

The SPEAKER pro tempore. The Chair has already ruled on the point of order. The point of order was well taken, and the Chair has admonished the gentleman from Missouri.

PARLIAMENTARY INQUIRY

Mr. WATT of North Carolina. Mr. Speaker, I have a parliamentary inquiry, if the gentleman from Missouri would yield?

Mr. VOLKMER. I yield to the gentleman from North Carolina.

The SPEAKER pro tempore. The gentleman from Missouri has yielded for a parliamentary inquiry to the gentleman from North Carolina. The gentleman will state his parliamentary inquiry.

Mr. WATT of North Carolina. Is the Chair saying that we have no right to be heard on whether a point of order is appropriate before the Chair rules on the point of order? As I understand it, Mr. Speaker, that is certainly not the rules of this House. Every party has an opportunity to be heard on whether a point of order is properly taken before the Chair rules on it.

The SPEAKER pro tempore. The discussion on the point of order is within the discretion of the Chair. When the hair is satisfied that the discussion on the point has been adequate, he can rule. In this case, the gentleman from New York [Mr. SOLOMON] stated his point, the gentleman from Missouri had his statement. The Chair has ruled.

Mr. WATT of North Carolina. Mr. Speaker, I was on my feet and seeking the attention of the Chair. I have the right to speak on the point of order just like anybody else has the right to speak on the point of order.

The SPEAKER pro tempore. The point of order has been ruled upon, and the gentleman from Missouri [Mr. VOLKMER] has yielded to the gentleman from North Carolina for a parliamentary inquiry. If the gentleman wishes to state a parliamentary inquiry, he may do so. Otherwise, the House will proceed in order.

Mr. WATT of North Carolina. Mr. Speaker, I made the parliamentary inquiry. I am asking the Chair to rule on whether I have the right to speak on the point of order.

Mr. VOLKMER. In deference to the gentleman from North Carolina, I would like to reclaim my time.

Mr. WATT of North Carolina. Go right ahead.

Mr. VOLKMER. Mr. Speaker, I will agree with the Chair that perhaps the words that I previously spoke about the gentleman from Georgia [Mr. GINGRICH] and the coverup that has taken place are not appropriate on the rule. But we do not have any other place to talk about it. They will not let us get any other place to talk about it.

So I would like to urge all Members to vote against this rule. I am sorry, gentleman from New York, who has been a good friend all throughout the years. We have together on various issues; we agree on many things.

But for this reason and this reason only, I am going to ask that everybody vote against this rule. Now that is appropriate.

Now the gentleman from New York, I will yield to him. Now are those words appropriate at this time?

Mr. SOLOMON. Mr. Speaker, is the gentleman from Missouri [Mr. VOLKMER] yielding to me?

Mr. VOLKMER. Mr. Speaker, I just want an answer, yes or no.

Mr. SOLOMON. How is the gentleman's cat?

Mr. VOLKMER. Bear is fine.

Mr. SOLOMON. My daughter loved the gentleman's speech about his cat the other day.

Mr. VOLKMER. Bear is fine.

Let us vote down the rule, and let us get the report out of the Committee on Standards of Official Conduct.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding this time to me, and I was very troubled by the Chair's ruling, and I am going to tell my colleagues why.

My understanding is, what we are debating is the martial law rule which gives the Speaker the right to bring any resolution to the floor whenever he wants to, waiving all the rule and normal procedures.

Now if that is true, I absolutely do not understand the Chair's ruling that something here is not germane. I would think under the martial law rule, everything would be germane because it goes to any resolution the Speaker could bring to the floor, and I think what this resolution is really about is so they can get out of Dodge, as we would say out west.

It is: "Let's get out of Dodge. It's getting hot in Dodge. Things are warming up in Dodge."

Whatever it is that we are not allowed to say, the R word, the report, but we are not allowed to say it. Oops, sorry, the it word. Whatever it is, the hundred pages downstairs is starting to smell. So we have got to get out of Dodge.

Now the problem is, the very first vote when this body reconvenes is going to be for the next Speaker.

□ 1815

Think how it is going to smell then. I think everybody ought to vote "no" on this rule. What in the world is the hustle to run away from this place at 100 miles an hour?

We look at the other side, and they came in here in all their glory celebrating. They are going to leave here looking like Dunkirk if they pass this thing. So this is martial law to avoid this type of response that we are seeing in the Speaker's very own hometown paper. It is saying, release that thing downstairs. I guess we cannot say that word. Release that.

I think most people feel it should be released. We are seeing more and more reports every day for releasing, and they are saying we have to have martial law, we have to get out of here fast, we have to get home, and we have to make so much smoke as we run for the door that they will not figure out what happened.

Mr. Speaker, 2 years and we have not dealt with this. This is very serious. I really thought that the gentleman from Missouri was making a great point. I am totally puzzled by the Chair saying that that is not germane, because if martial law is not germane to our running out the door, to our adjourning this body until next January, I do not know what is. When it is adjourning, the question is, what is it running from? What is the hurry? Why do we have to have martial law? Why do we have to have it on September 24?

I think we are all beginning to find out, and I think that is why the pressure is mounting to get this out, get us gagged, do not allow us to talk about anything on the floor. This morning we were told we could go outside and talk about it. Is that not wonderful? But I never heard of such a thing. I must say, I am very saddened. I have been here 24 years. I have never seen a performance like this. But it is really clear, it is really clear, people want to load the wagons and roll them out. I really hope everybody votes "no".

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

Mrs. SCHROEDER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, is this not another example of the entreme radical agenda of the majority? Is this not another example of the radical extremism of the majority?

Mrs. SCHROEDER. It certainly looks to me like we are checking all the regular procedures. We want to run away as fast as possible. The question is, what are we running from?

I am very saddened, because I think this is what we are running from. We are running from what the Atlanta Constitution is talking about, we are running from what many major newspapers are talking about. People who vote for this martial law are voting to just set off the guns so we can run.

I would hope that folks would feel that this should be a deliberative body where we can discuss things, and especially deal with the cloud that is over this House, and is going to remain over this House until we act on that R word and get it up here, so we know what it is. Going home and saying we did not

have time to read it is not going to satisfy us.

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

Mr. Speaker, I just do not think it is right to stand up here and criticize the President of the United States that way. Let me just read one more time from Norman Ornstein, one of the most respected political scientists in America. He said, "The most significant Congress in a generation; this is a plently respectable output indeed. It ranks with the top Congresses of the past 30 years." Guess what, the President of the United States signed 65 percent of the contract for America into law.

Do not be so critical of your President.

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

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, I must say, I am moved. The gentleman from New York quotes a pundit, saying this is the most significant Congress. It reminds me of going to visit friends who have had new babies and saying, that is some baby.

This is a significant Congress. It is significant in that we are being asked today to waive rules, to impose martial law. Does not the word "martial" get your attention when you hear about this? It gets my attention, because what it tells me is that we do not want to slow down this process to allow people to listen. What do we not want to let people listen to? We do not want to let people listen to our rebuttal of what the Speaker has been saying on television lately.

What I have been hearing him say, and it annoyed me to death, just last week I heard him say, I have been exonerated by the Ethics Committee. We do not know. We do know he was found quilty, guilty, guilty, guilty.

POINT OF ORDER

Mr. LINDER. Point of order, Mr. Speaker.

The SPEAKER pro tempore (Mr. GILLMOR). The gentleman from Georgia [Mr. LINDER] will state his point of order.

Mr. LINDER. The gentleman is referring one more time to matters before the committee on ethics. I believe that is against the rules of the House.

Mr. WATT of North Carolina. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER pro tempore. The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. The Chair will hear me this time? I thank the Chair.

I just want to submit to the Speaker that this debate is about yielding unprecedented authority to the Speaker of the House. The Speaker's integrity, the person to whom we are proposing to yield that authority, his integrity is at the heart of the matter. If we cannot get to his integrity, then how can we determine whether we ought to be yielding these unprecedented, overwhelming authorities to him?

If we do not like what he was been doing, if he has been out disrespecting the House of the United States, then why should we give him some unprecedented authority called martial law? That is at the very heart. His responsibility, his ethics, are at the very heart of the matter.

I would submit, Mr. Speaker, that this is germane to the issues and the matter before this House.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. WARD] wish to be heard on the point of order?

Mr. WARD. Yes, Mr. Speaker. I would ask that the gentleman clarify his point of order so I can know what it is that I have said to which he objects.

The SPEAKER pro tempore. The Chair will hear each gentleman on his own time.

Mr. LINDER. Mr. Speaker, over the course of the last 10 days or so, when the minority party has tried to bring to the floor of this House a discussion of matters before the Committee on Ethics, the Chair has consistently ruled that not only referring to the matters before the Committee on Ethics, but referring to press reports about those matters is against the rules of the House.

The gentleman is standing there with a large print of an editorial out of a newspaper that does precisely that: To make the case, in print, for the people watching this, about matters before the Committee on Ethics. It strikes me that, if the Chair is going to rule that we cannot talk about it, the same argument would obtain that just displaying it is abusing the rules of the House.

Mr. WARD. Mr. Speaker, I thought the gentleman was responding to my saying that the Speaker had been found guilty of a number of ethics violations, according to a letter from the Ethics Committee dated December 6, 1995.

I was not referring to the document here displayed. I was referring to his allowing the senior GOPAC official to act as the chief of staff in the Speaker's office, for which he was found guilty. I was referring to abusing the House floor to sell videotapes. That is what I was referring to.

PARLIAMENTARY INQUIRY

Mr. LINDER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LINDER. Is the gentleman seeking to address the point of order, or is he making another speech? My point was this, that merely having that on display is an abuse of the rules of the House.

The SPEAKER pro tempore. The Chair is prepared to rule, having heard the arguments on both sides.

The Chair would say that the point of order is well taken; that the gentleman may debate the advisability of granting generic authorities proposed in the pending resolution but may not dwell on the merits of measures that might arise under those authorities.

The recent series of rulings by the Chair rest more squarely on the stricture against personalities in debate than on the requirements of relevance. With respect to the cases disposed of, todays's standard is not a new standard under the precedents. The point is not necessarily whether the matter is still pending elsewhere. The point is that the matter is not pending on the floor here and now as a question of privilege and the point of order is well taken.

The gentleman from Kentucky [Mr. WARD] may proceed in order.

Mr. CUNNINGHAM. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Kentucky [Mr. WARD], yield for that purpose?

Mr. WARD. No. I would like to proceed, if I may.

The SPEAKER pro tempore. The gentleman from Kentucky [Mr. WARD] may proceed in order.

Mr. WARD. Again, Mr. Speaker, what I was talking about was my frustration as a Member of this House in having to vote on a matter which gives the Speaker martial law, at a time when I am deeply frustrated by watching the television and seeing the Speaker say that he has been found innocent 66 times, when, according to the letter of the Ethics Committee——

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

Mr. WARD. I yield to the gentleman from Georgia.

Mr. LINDER. Mr. Speaker, would the gentleman point out to me where in the entire resolution the words "martial law" appear? Could the gentleman point out to me where in the resolution the words "martial law" appear?

Mr. WARD. Mr. Speaker, I am using the code.

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

Mr. WARD. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, it is the effect of the resolution, is to give the Speaker the power of martial law.

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

Mr. WARD. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I would like to talk about the point that the gentleman has just made, the fact that the Speaker and others have advocated the position that they have been exonerated, when in fact, as the gentleman has correctly pointed out, on a number of occasions the Ethics Committee has

found the Speaker guilty and has issued public letters from the Ethics Committee so indicating.

The gentleman has those instances before him, and I think the House would like and the American people would like to hear just exactly what that record is. I would hope the gentleman would continue with his remarks, so he could elaborate on just what is the record of the Ethics Committee with regard to the Speaker, as they have released these findings in public letter to the country.

Mr. WARD. I appreciate the gentleman's comments. I do share that concern. It is very frustrating to talk with people and explain to them what has happened when they just quote back to me, well, I saw Speaker GINGRICH on "Meet the Press," and he said he was exonerated 66 times, and the Democrats are just being mean to him.

By golly, according to the letter of the House Ethics Committee on December 6, 1995, I would advise the gentleman from Michigan that I share that frustration. We have not been able to make this straight on the floor. We have not been able to get, and I cannot talk about what we are not able to get, from what I understand.

That makes no sense to me as a freshman, why I cannot talk about a very important matter of public policy, especially when we remember what Speaker GINGRICH said in this exact same situation not that many years ago. I think we ought to be able to make these things open to the public.

So what I am going to do is make open to the public the facts that are on the record, that are in a letter from the Ethics Committee, that a senior GOPAC official was allowed to act as chief of staff in the Speaker's office, and that was improper commingling of political and official resources.

Mr. BONIOR. And it violated our rules, as I recall.

POINT OF ORDER

Mr. CUNNINGHAM. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. CUNNINGHAM] will state his point of order.

Mr. CUNNINGHAM. Mr. Speaker, we are prevented from speaking about other Members on the other side, about previous ethics violations. It is not against the rules of the House to do so?

The SPEAKER pro tempore. The Chair would remind all Members that it is not in order to discuss past or present official conduct cases of sitting Members unless the matter is pending before the House as a question of privilege.

Mr. BONIOR. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. WARD. I yield to the gentleman from Michigan.

PARLIAMENTARY INQUIRY

Mr. BONIOR. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BONIOR. Mr. Speaker, the point that the gentleman from North Carolina [Mr. WATT] made I think is right on target. We are talking about extraordinary powers here, giving the Speaker extraordinary powers under this resolution.

□ 1830

The integrity of the person receiving those extraordinary powers is indeed germane to this issue.

Mr. WALKER. Mr. Speaker, the gentleman is not stating a parliamentary inquiry.

Mr. BONIOR. I ask the Speaker, is it not in order for us to raise the record on this gentleman's integrity with respect to what the Ethics Committee has found in public letter, in the past, not pending, not in the future, what it has made a determination on? Is it not in order for us to discuss those violations?

The SPEAKER pro tempore (Mr. GILLMOR). The Chair understands the inquiry, and the Chair would say that the gentleman may debate the advisability of granting the generic authorities proposed in the pending resolution, but may not address personalities, to wit, the allegations of misconduct of a sitting Member which have been before the Standards Committee.

Mr. BONIOR. These are findings, Mr. Speaker. These are not allegations that the gentleman from Kentucky is discussing. He is discussing findings made by the committee. It goes to the character of the individual to whom we are about to vote granting extraordinary powers.

The SPEAKER pro tempore. The Chair would respond to the gentleman from Michigan's parliamentary inquiry.

Even if a matter has been disposed of by the House, so long as that Member remains a Member of Congress, it constitutes personality in debate to further discuss that, and the Chair has responded to the gentleman's parliamentary inquiry.

The gentleman from Kentucky may proceed in order.

PARLIAMENTARY INQUIRY

Mr. HEFNER. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Kentucky yield?

Mr. WARD. Yes, I yield to the gentleman from North Carolina.

Mr. HEFNER. Could I make a point? I do not want to get involved in specifics, but we are considering a piece of legislation that we are going to grant to an individual, the Speaker of the House, to arbitrarily call bills to this House at his discretion.

Mr. SOLOMON. Mr. Speaker, the gentleman is not propounding a parliamentary inquiry.

Mr. HEFNER. I am making an inquiry.

Mr. SOLOMON. Have him ask a question.

Mr. WARD. I would be glad to yield him time for purposes of debate.

The SPEAKER pro tempore. The gentleman from Kentucky has yielded. The Chair will listen to the gentleman. The gentleman may proceed.

Mr. HEFNER. Mr. Speaker, it seems to me we are giving extraordinary power to one individual to make decisions, to call bills to this floor, that this House will be called upon to vote on, that one individual to make decisions that affects over 250 million Americans in this country, and we do not even have the right to talk about the ethics of the person that will be administering this martial law, whatever you want to call it, bill. To me this is absolutely totally——

The SPEAKER pro tempore. The gentleman has not stated a parliamentary inquiry.

Mr. HEFNER. No, but I have made a statement.

The SPEAKER pro tempore. The time of the gentleman from Kentucky has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, we have many important issues to complete before we end the 104th Congress, and I would say we certainly ought to have whatever reports ought to be generically made before this House, whether on the Speaker or anyone else.

As we proceed through the business, we are attempting to hurry through that and give unprecedented power to the Speaker, one whose character is at question. Mr. Speaker, I would urge that we vote against that, because it is unprecedented that we should do that. We have done that on individual bills, but never have we given a blanket martial law exception. What we will have happening——

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. CLAYTON. I think I only have a few minutes.

Mr. WALKER. I just wanted to point out to the gentlewoman that we have done this at the end of many Congresses.

Mr. VOLKMER. Regular order, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from North Carolina has the time.

Mr. VOLKMER. Would the Chair please admonish the gentleman from Pennsylvania not to interrupt the gentlewoman.

The SPEAKER pro tempore. And as well the gentleman from Missouri. The gentlewoman from North Carolina has the time.

Mrs. CLAYTON. Mr. Speaker, we should not rush to judgment or rush to

leave here without having a deliberative process, and certainly we should not rush to give unspeakable authority to one whose character is at stake here. Shutting down the Congress was the result of martial law before. Do we want to do something even tantamount to that? I would say we need to vote against the martial law we are giving to the Speaker.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this martial law resolution to grant Speaker NEWT GINGRICH extraordinary power in the people's House. This legislation will give Speaker GINGRICH the power to bring up virtually any legislation at any time, with no advance notice.

Martial law is usually granted to military repressive regimes. It allows an individual, usually a dictator, to do whatever he or she wants to do without following the rule of law, without going through the regular processes of government. Do we in fact want to give that kind of power to Speaker NEWT GINGRICH given his past record in this 104th Congress? The resolution undermines debate in this House, but undermining debate is what this Congress has been all about, under the leadership of Speaker NEWT GINGRICH.

This week marks the anniversary of the hearings that Democrats were forced to hold outside of this institution, on the lawn of the Capitol, because the Republican leadership refused to allow debate on massive Medicare cuts that they proposed. The Speaker shut down the Government because he was piqued that he did not leave by the front door of the President's airplane but left by the back door.

Keep in mind, martial law, a dictator who can do whatever he or she wants to do without going through the regular process. The fact of the matter here is there is a pattern of silencing Members. We are watching it on this floor tonight.

What they are trying to tell us is that we cannot speak about past rulings that have had to do with the Speaker in this House, what his record is about. He has been found guilty, that is a fact, in a number of the instances from this committee. They refuse to allow us to speak about any of this. They refuse to allow us to report on the allegations against the Speaker regarding the Speaker's tax fraud. Release this report.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. My colleagues, I want to get back to what this debate is about. It is about whether we give unprecedented authority to the Speaker to bring up any legislation at any time with no advance notice, what we call in the vernacular, martial law.

I tell you, I cannot think of anybody in this House I would less like to give unprecedented authority to. If I am thinking about who I am going to give some unprecedented authority to, you think I want to give unprecedented authority to somebody who would lead people to take school lunches out of kids' mouths, to take Medicare away from elderly citizens, whose reputation and ethics are at stake and will not allow anybody to talk about it, who does not want to fund education programs for our children? This is the person we are talking about giving unprecedented authority to? I would not think of giving this man unprecedented authority and voting for this rule.

I can think of probably 434 other people in this House I would give it to before I would give it to this Speaker.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to the floor of the House because I am overwhelmed at how we have run this 104th Congress.

I think as a freshman I can count beyond 10, but certainly when you have a number as large as 10, to know that under Speaker GINGRICH we have had 10 opportunities to have martial law. That means simply we have had 10 opportunities to obliterate the rules of the House, to continue to have bills brought to the floor, without any hearings, without any review, without any sense of perspective, and now, included in that rule that we are now trying to vote, which I ask for people to vote against, we now have the refusal of the leadership of the House to bring the report that deals with the ethics violation of this Speaker. How can we say to the American people that in the course of this omnibus, large martial law that we will not be cutting Medicare more, we will not be cutting school lunches more, we will not be cutting direct student loans? How can we say to them that we will be doing the business of the American people?

Mr. Speaker, I would simply ask, 10 times is 10 times too many. We do not need martial law here in the United States of America. What we do need is a report from the ethics counsel that cost $500,000. That is what we need, Mr. Speaker.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, with all the allegations that I have made as to the Speaker and the ethics, with all the other ones that the Members on this side have made, many of which are true, it has amazed me that not one Member of the majority party, not one Member, has taken to the floor to answer those allegations. Not one Member has taken to the floor in support of why the Ethics Committee is not releasing this report. Not one Member has justified the secret keeping of this report. Not once has one Republican Member taken to the floor to support the Speaker.

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

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I pose the question, should Ken Starr release prematurely his report? I do not think the answer is yes. Think about that.

But as I have stood here and listened to speaker after speaker on the other side of the aisle talk about the unprecedented circumstances here, there is no unprecedented circumstance.

I have before you, and I will be glad to show each and every one of you, as I have already done for the record, that Speaker Foley in the 101st Congress, the 102d Congress, the 103d Congress, in other words, over the last 6 years, has been given blanket authority for exactly what we are doing here today. There is no unprecedented circumstance here at all.

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

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Does that mean some of the very people that got down to the well and spoke on this matter voted for rules in the past that gave the Speaker this kind of authority?

Mr. SOLOMON. The gentleman was not on the floor earlier, but I cited my good friend and gentleman from Michigan [Mr. BONIOR] who is the minority whip, but who was at the time a member of the Rules Committee with me sponsoring the rule and carrying the rule on the floor which gives the exact blanket authority we are giving here today, along with Chairman MOAKLEY who was the chairman at the time. Even my good friend TONY HALL who is one of the most respected Members of this body voted time and again, 11 different times in the previous Congress, to do exactly what we are doing here today.

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

Mr. SOLOMON. I will yield, but I have to conclude because we have to get on with a very important bill. But I yield to the gentleman from San Diego, CA.

Mr. CUNNINGHAM. As I understand it, the other side was talking about follow the rule of law. After the Jim Wright case, and correct me, the gentleman was on the Ethics Committee, there were problems and they did not want the same problems to resurface.

While the Democrats were in power, they rewrote the rules on ethics. What I was trying to get to during the parliamentary inquiry before, is it not correct that the rule we are following today was written when the Democrats were in the majority?

□ 1845

Mr. SOLOMON. Mr. Speaker, reclaiming my time, the gentleman is absolutely correct.

Mr. Speaker, let me conclude by citing clause 1 of our rules. It says on Mondays and Tuesdays during the last 6 days of the session, you shall have this blanket authority. That is what the rule actually says. Unfortunately, we cannot get a sine die resolution. We hope to get it this Thursday, Friday, Saturday, Sunday, or Monday at some point.

So, under normal circumstances, the normal rules of the House, we are given this authority to bring up suspension bills after due consultation with the minority, giving them 1 hour's notice. We intend to do that. We will do it. So we are not violating any rules of the House.

Mr. Speaker, having said all that, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GILLMOR). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. 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. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 191, not voting 17, as follows:

[Roll No. 425]

YEAS—225

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—191

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Blumenauer
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chenoweth
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Cummings
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOT VOTING—17

Bunn
Chapman
Durbin
Engel
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Lincoln
Oxley
Peterson (FL)
Rangel
Roberts
Studds
Torres
Wilson

□ 1906

Mrs. CHENOWETH and Mr. METCALF changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3259, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1997

Mr. COMBEST submitted the following conference report and statement on the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–832)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3259), to authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1997".

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

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS
Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Limitation on availability of funds for automatic declassification of records over 25 years old.
Sec. 304. Application of sanctions laws to intelligence activities.
Sec. 305. Expedited naturalization.
Sec. 306. Sense of Congress on enforcement of requirement to protect the identities of undercover intelligence officers, agents, informants, and sources.
Sec. 307. Sense of Congress on intelligence community contracting.
Sec. 308. Restrictions on intelligence sharing with the United Nations.
Sec. 309. Prohibition on using journalists as agents or assets.
Sec. 310. Report on policy of intelligence community regarding the protection of the national information infrastructure against attack.
TITLE IV—CENTRAL INTELLIGENCE AGENCY
Sec. 401. Elimination of double surcharge on Central Intelligence Agency relating to employees who retire or resign in fiscal years 1998 or 1999 and who receive voluntary separation incentive payments.
Sec. 402. Post-employment restrictions.
TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES
Sec. 501. Executive branch oversight of budgets of elements of the intelligence community.
TITLE VI—FEDERAL BUREAU OF INVESTIGATION
Sec. 601. Access to telephone records.
TITLE VII—COMBATTING PROLIFERATION
Sec. 701. Short title.
Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation
Sec. 711. Establishment of commission.
Sec. 712. Duties of commission.
Sec. 713. Powers of commission.
Sec. 714. Commission personnel matters.
Sec. 715. Termination of commission.
Sec. 716. Definition.
Sec. 717. Payment of commission expenses.
Subtitle B—Other Matters
Sec. 721. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.
TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES
Sec. 801. Short title.
Sec. 802. Committee on Foreign Intelligence.
Sec. 803. Annual reports on intelligence.
Sec. 804. Transnational threats.
Sec. 805. Overall management of central intelligence.
Sec. 806. National Intelligence Council.
Sec. 807. Enhancement of authority of Director of Central Intelligence to manage budget, personnel, and activities of intelligence community.
Sec. 808. Responsibilities of Secretary of Defense pertaining to the National Foreign Intelligence Program.
Sec. 809. Improvement of intelligence collection.
Sec. 810. Improvement of analysis and production of intelligence.
Sec. 811. Improvement of administration of intelligence activities.
Sec. 812. Pay level of Deputy Director of Central Intelligence for Community Management and Assistant Directors of Central Intelligence.
Sec. 813. General Counsel of the Central Intelligence Agency.
Sec. 814. Assistance for law enforcement agencies by intelligence community.
Sec. 815. Appointment of officials responsible for intelligence-related activities.
Sec. 816. Study on the future of intelligence collection.
Sec. 817. Intelligence Reserve Corps.
TITLE IX—FINANCIAL MATTERS
Sec. 901. Authorization of funding provided by 1996 supplemental appropriations Act.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1997 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.
(11) The National Reconnaissance Office.
(12) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1997, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 3259 of the One Hundred Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1997 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1997 the sum of $131,116,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee shall remain available until September 30, 1998.

(b) AUTHORIZED PERSONNEL LEVELS.—The staff of the Community Management Account of the Director of Central Intelligence is authorized 303 full-time personnel as of September 30, 1997. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1997, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(d) NATIONAL DRUG INTELLIGENCE CENTER.—(1) Of the amount authorized to be appropriated in subsection (a), $27,000,000 shall be available for the National Drug Intelligence Center located in Johnstown, Pennsylvania.

(2) The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the center.

(3) Amounts available for the center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the center.

(e) ENVIRONMENTAL PROGRAMS.—Of the amount authorized to be appropriated in subsection (a), $18,000,000 shall be available for the Environmental Intelligence and Applications Program, formerly known as the Environmental Task Force, and remain available until September 30, 1998.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1997 the sum of $184,200,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. LIMITATION ON AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD.

Of the amounts authorized to be appropriated for fiscal year 1997 by this Act for the National

Foreign Intelligence Program, not more than $27,200,000 shall be available to carry out the provisions of section 3.4 of Executive Order 12958.

SEC. 304. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "on the date which is one year after the date of the enactment of this title" and inserting in lieu thereof "on January 6, 1998".

SEC. 305. EXPEDITED NATURALIZATION.

(a) IN GENERAL.—With the approval of the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization, an applicant described in subsection (b) and otherwise eligible for naturalization may be naturalized without regard to the residence and physical presence requirements of section 316(a) of the Immigration and Nationality Act, or to the prohibitions of section 313 of such Act, and no residence within a particular State or district of the Immigration and Naturalization Service in the United States shall be required.

(b) ELIGIBLE APPLICANT.—An applicant eligible for naturalization under this section is the spouse or child of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information regarding the alien's participation in the conduct of United States intelligence activities and who—

(1) has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least one year prior to naturalization; and

(2) is not described in subparagraph (A), (B), (C), or (D) of section 243(h)(2) of such Act.

(c) ADMINISTRATION OF OATH.—An applicant for naturalization under this section may be administered the oath of allegiance under section 337(a) of the Immigration and Nationality Act by the Attorney General or any district court of the United States, without regard to the residence of the applicant. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods, and activities.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "child" means a child as defined in subparagraphs (A) through (E) of section 101(b)(1) of the Immigration and Nationality Act, without regard to age or marital status; and

(2) the term "spouse" means the wife or husband of a deceased alien referred to in subsection (b) who was married to such alien during the time the alien participated in the conduct of United States intelligence activities.

SEC. 306. SENSE OF CONGRESS ON ENFORCEMENT OF REQUIREMENT TO PROTECT THE IDENTITIES OF UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES.

It is the sense of Congress that title VI of the National Security Act of 1947 (50 U.S.C. 421 et seq.) (relating to protection of the identities of undercover intelligence officers, agents, informants, and sources) should be enforced by the appropriate law enforcement agencies.

SEC. 307. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with the operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should award contracts in a manner that would maximize the procurement of products properly designated as having been made in the United States.

SEC. 308. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end of title I the following new section:

"RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

"SEC. 110. (a) PROVISION OF INTELLIGENCE INFORMATION TO THE UNITED NATIONS.—(1) No United States intelligence information may be provided to the United Nations or any organization affiliated with the United Nations, or to any officials or employees thereof, unless the President certifies to the appropriate committees of Congress that the Director of Central Intelligence, in consultation with the Secretary of State and the Secretary of Defense, has established and implemented procedures, and has worked with the United Nations to ensure implementation of procedures, for protecting from unauthorized disclosure United States intelligence sources and methods connected to such information.

"(2) Paragraph (1) may be waived upon written certification by the President to the appropriate committees of Congress that providing such information to the United Nations or an organization affiliated with the United Nations, or to any officials or employees thereof, is in the national security interests of the United States.

"(b) PERIODIC AND SPECIAL REPORTS.—(1) The President shall report semiannually to the appropriate committees of Congress on the types and volume of intelligence provided to the United Nations and the purposes for which it was provided during the period covered by the report. The President shall also report to the appropriate committees of Congress within 15 days after it has become known to the United States Government that there has been an unauthorized disclosure of intelligence provided by the United States to the United Nations.

"(2) The requirement for periodic reports under the first sentence of paragraph (1) shall not apply to the provision of intelligence that is provided only to, and for the use of, appropriately cleared United States Government personnel serving with the United Nations.

"(c) DELEGATION OF DUTIES.—The President may not delegate or assign the duties of the President under this section.

"(d) RELATIONSHIP TO EXISTING LAW.—Nothing in this section shall be construed to—

"(1) impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(6) of this Act; or

"(2) supersede or otherwise affect the provisions of title V of this Act.

"(e) DEFINITION.—As used in this section, the term 'appropriate committees of Congress' means the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and the Committee on Foreign Relations and the Permanent Select Committee on Intelligence of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The table of contents for the National Security Act of 1947 is amended by inserting after the item relating to section 109 the following:

"Sec. 110. Restrictions on intelligence sharing with the United Nations.".

SEC. 309. PROHIBITION ON USING JOURNALISTS AS AGENTS OR ASSETS.

(a) POLICY.—It is the policy of the United States that an element of the Intelligence Community may not use as an agent or asset for the purposes of collecting intelligence any individual who—

(1) is authorized by contract or by the issuance of press credentials to represent himself or herself, either in the United States or abroad, as a correspondent of a United States news media organization; or

(2) is officially recognized by a foreign government as a representative of a United States media organization.

(b) WAIVER.—Pursuant to such procedures as the President may prescribe, the President or the Director of Central Intelligence may waive subsection (a) in the case of an individual if the President or the Director, as the case may be, makes a written determination that the waiver is necessary to address the overriding national security interest of the United States. The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be notified of any waiver under this subsection.

(c) VOLUNTARY COOPERATION.—Subsection (a) shall not be construed to prohibit the voluntary cooperation of any person who is aware that the cooperation is being provided to an element of the United States Intelligence Community.

SEC. 310. REPORT ON POLICY OF INTELLIGENCE COMMUNITY REGARDING THE PROTECTION OF THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST ATTACK.

(a) REPORT.—(1) Not later than 120 days after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress a report on the potential responses of the intelligence community to threats to and attacks upon the information infrastructure of the United States by foreign countries, groups, or individuals, or by other entities, groups, or individuals.

(2) The report shall include the following:

(A) An analysis of the threats posed to the information infrastructure of the United States by information warfare and other forms of non-traditional attacks on the infrastructure by foreign countries, groups, or individuals, or by other entities, groups, or individuals.

(B) A description and assessment of the counterintelligence activities required to respond to such threats, including the plans of the intelligence community to support such activities.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "intelligence community" has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(2) The term "information infrastructure of the United States" includes the information infrastructure of the public sector and of the private sector.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ELIMINATION OF DOUBLE SURCHARGE ON CENTRAL INTELLIGENCE AGENCY RELATING TO EMPLOYEES WHO RETIRE OR RESIGN IN FISCAL YEARS 1998 OR 1999 AND WHO RECEIVE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

Section 2(i) of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended by adding at the end the following: "The remittance required by this subsection shall be in lieu of any remittance required by section 4(a) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 8331 note).".

SEC. 402. POST-EMPLOYMENT RESTRICTIONS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of Central Intelligence shall prescribe regulations requiring each employee of the Central Intelligence Agency designated by the Director for such purpose to sign a written agreement restricting the activities of the employee upon ceasing employment with the Central Intelligence Agency. The Director may designate a group or class of employees for such purpose.

(b) AGREEMENT ELEMENTS.—The regulations shall provide that an agreement contain provisions specifying that the employee concerned not represent or advise the government, or any political party, of any foreign country during the three-year period beginning on the cessation of the employee's employment with the Central Intelligence Agency unless the Director determines that such representation or advice would be in the best interests of the United States.

(c) DISCIPLINARY ACTIONS.—The regulations shall specify appropriate disciplinary actions (including loss of retirement benefits) to be taken against any employee determined by the Director of Central Intelligence to have violated the agreement of the employee under this section.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report setting forth the actions that have been taken to ensure adequate oversight by the executive branch of the budget of the National Reconnaissance Office and the budgets of other elements of the intelligence community within the Department of Defense.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall—

(1) describe the extent to which the elements of the intelligence community carrying out programs and activities in the National Foreign Intelligence Program are subject to requirements imposed on other elements and components of the Department of Defense under the Chief Financial Officers Act of 1990 (Public Law 101–576), and the amendments made by that Act, and the Federal Financial Management Act of 1994 (title IV of Public Law 103–356), and the amendments made by that Act;

(2) describe the extent to which such elements submit to the Office of Management and Budget budget justification materials and execution reports similar to the budget justification materials and execution reports submitted to the Office of Management and Budget by the non-intelligence components of the Department of Defense;

(3) describe the extent to which the National Reconnaissance Office submits to the Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense—

(A) complete information on the cost, schedule, performance, and requirements for any new major acquisition before initiating the acquisition;

(B) yearly reports (including baseline cost and schedule information) on major acquisitions;

(C) planned and actual expenditures in connection with major acquisitions; and

(D) variances from any cost baselines for major acquisitions (including explanations of such variances); and

(4) assess the extent to which the National Reconnaissance Office has submitted to Office of Management and Budget, the Community Management Staff, and the Office of the Secretary of Defense on a monthly basis a detailed budget execution report similar to the budget execution report prepared for Department of Defense programs.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "appropriate congressional committees" means the following:

(A) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

(2) The term "National Foreign Intelligence Program" has the meaning given such term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. ACCESS TO TELEPHONE RECORDS.

(a) ACCESS FOR COUNTERINTELLIGENCE PURPOSES.—Section 2709(b)(1) of title 18, United States Code, is amended by inserting "local and long distance" before "toll billing records".

(b) CONFORMING AMENDMENT.—Section 2703(c)(1)(C) of such title is amended by inserting "local and long distance" after "address,".

(c) CIVIL REMEDY.—Section 2707 of such title is amended—

(1) in subsection (a), by striking out "customer" and inserting in lieu thereof "other person";

(2) in subsection (c), by adding at the end the following: "If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following new subsection (d):

"(d) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.".

TITLE VII—COMBATTING PROLIFERATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

SEC. 711. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

(1) four shall be appointed by the President;

(2) one shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) one shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) 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.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

SEC. 712. DUTIES OF COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 713. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

(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.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 714. 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 Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary 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 Chairman of the Commission 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 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 such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—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 Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 715. TERMINATION OF COMMISSION.

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

SEC. 716. DEFINITION.

For purposes of this subtitle, the term "intelligence community" shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

SEC. 717. PAYMENT OF COMMISSION EXPENSES.

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

Subtitle B—Other Matters

SEC. 721. REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.

(a) REPORTS.—Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) FORM OF REPORTS.—The reports submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

SEC. 801. SHORT TITLE.

This title may be cited as the "Intelligence Renewal and Reform Act of 1996".

SEC. 802. COMMITTEE ON FOREIGN INTELLIGENCE.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h)(1) There is established within the National Security Council a committee to be known as the Committee on Foreign Intelligence (in this subsection referred to as the 'Committee').

"(2) The Committee shall be composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

"(E) Such other members as the President may designate.

"(3) The function of the Committee shall be to assist the Council in its activities by—

"(A) identifying the intelligence required to address the national security interests of the United States as specified by the President;

"(B) establishing priorities (including funding priorities) among the programs, projects, and activities that address such interests and requirements; and

"(C) establishing policies relating to the conduct of intelligence activities of the United States, including appropriate roles and missions for the elements of the intelligence community and appropriate targets of intelligence collection activities.

"(4) In carrying out its function, the Committee shall—

"(A) conduct an annual review of the national security interests of the United States;

"(B) identify on an annual basis, and at such other times as the Council may require, the intelligence required to meet such interests and establish an order of priority for the collection and analysis of such intelligence; and

"(C) conduct an annual review of the elements of the intelligence community in order to determine the success of such elements in collecting, analyzing, and disseminating the intelligence identified under subparagraph (B).

"(5) The Committee shall submit each year to the Council and to the Director of Central Intelligence a comprehensive report on its activities during the preceding year, including its activities under paragraphs (3) and (4).".

SEC. 803. ANNUAL REPORTS ON INTELLIGENCE.

(a) IN GENERAL.—Section 109 of the National Security Act of 1947 (50 U.S.C. 404d) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 109. (a) IN GENERAL.—(1) Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.

"(2) The purpose of the report is to facilitate an assessment of the activities of the intelligence community during the preceding fiscal year and to assist in the development of a mission and a budget for the intelligence community for the fiscal year beginning in the year in which the report is submitted.

"(3) The report shall be submitted in unclassified form, but may include a classified annex.

"(b) MATTERS COVERED.—(1) Each report under subsection (a) shall—

"(A) specify the intelligence required to meet the national security interests of the United States, and set forth an order of priority for the collection and analysis of intelligence required to meet such interests, for the fiscal year beginning in the year in which the report is submitted; and

"(B) evaluate the performance of the intelligence community in collecting and analyzing

intelligence required to meet such interests during the fiscal year ending in the year preceding the year in which the report is submitted, including a description of the significant successes and significant failures of the intelligence community in such collection and analysis during that fiscal year.

"(2) The report shall specify matters under paragraph (1)(A) in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

"(c) DEFINITION.—In this section, the term 'appropriate congressional committees' means the following:

"(1) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Armed Services of the Senate.

"(2) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on National Security of the House of Representatives.".

(b) CONFORMING AMENDMENTS.—(1) The section heading of such section is amended to read as follows:

"ANNUAL REPORT ON INTELLIGENCE".

(2) The table of contents for Act is amended by striking out the item relating to section 109 and inserting in lieu thereof the following new item:

"Sec. 109. Annual report on intelligence.".

SEC. 804. TRANSNATIONAL THREATS.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by inserting after subsection (h), as amended by section 802 of this Act, the following new subsection:

"(i)(1) There is established within the National Security Council a committee to be known as the Committee on Transnational Threats (in this subsection referred to as the 'Committee').

"(2) The Committee shall include the following members:

"(A) The Director of Central Intelligence.

"(B) The Secretary of State.

"(C) The Secretary of Defense.

"(D) The Attorney General.

"(E) The Assistant to the President for National Security Affairs, who shall serve as the chairperson of the Committee.

"(F) Such other members as the President may designate.

"(3) The function of the Committee shall be to coordinate and direct the activities of the United States Government relating to combatting transnational threats.

"(4) In carrying out its function, the Committee shall—

"(A) identify transnational threats;

"(B) develop strategies to enable the United States Government to respond to transnational threats identified under subparagraph (A);

"(C) monitor implementation of such strategies;

"(D) make recommendations as to appropriate responses to specific transnational threats;

"(E) assist in the resolution of operational and policy differences among Federal departments and agencies in their responses to transnational threats;

"(F) develop policies and procedures to ensure the effective sharing of information about transnational threats among Federal departments and agencies, including law enforcement agencies and the elements of the intelligence community; and

"(G) develop guidelines to enhance and improve the coordination of activities of Federal law enforcement agencies and elements of the intelligence community outside the United States with respect to transnational threats.

"(5) For purposes of this subsection, the term 'transnational threat' means the following:

"(A) Any transnational activity (including international terrorism, narcotics trafficking, the proliferation of weapons of mass destruction and the delivery systems for such weapons, and organized crime) that threatens the national security of the United States.

"(B) Any individual or group that engages in an activity referred to in subparagraph (A).".

SEC. 805. OVERALL MANAGEMENT OF CENTRAL INTELLIGENCE.

(a) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by striking out section 102 and inserting in lieu thereof the following new section 102:

"OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE

"SEC. 102. (a) DIRECTOR OF CENTRAL INTELLIGENCE.—There is a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall—

"(1) serve as head of the United States intelligence community;

"(2) act as the principal adviser to the President for intelligence matters related to the national security; and

"(3) serve as head of the Central Intelligence Agency.

"(b) DEPUTY DIRECTORS OF CENTRAL INTELLIGENCE.—(1) There is a Deputy Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) There is a Deputy Director of Central Intelligence for Community Management who shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) Each Deputy Director of Central Intelligence shall have extensive national security expertise.

"(c) MILITARY STATUS OF DIRECTOR AND DEPUTY DIRECTORS.—(1)(A) Not more than one of the individuals serving in the positions specified in subparagraph (B) may be a commissioned officer of the Armed Forces, whether in active or retired status.

"(B) The positions referred to in subparagraph (A) are the following:

"(i) The Director of Central Intelligence.

"(ii) The Deputy Director of Central Intelligence.

"(iii) The Deputy Director of Central Intelligence for Community Management.

"(2) It is the sense of Congress that, under ordinary circumstances, it is desirable that one of the individuals serving in the positions specified in paragraph (1)(B)—

"(A) be a commissioned officer of the Armed Forces, whether in active or retired status; or

"(B) have, by training or experience, an appreciation of military intelligence activities and requirements.

"(3) A commissioned officer of the Armed Forces, while serving in a position specified in paragraph (1)(B)—

"(A) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(B) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(C) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of that officer.

"(4) Except as provided in subparagraph (A) or (B) of paragraph (3), the appointment of an officer of the Armed Forces to a position specified in paragraph (1)(B) shall not affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(5) A commissioned officer of the Armed Forces on active duty who is appointed to a position specified in paragraph (1)(B), while serving in such position and while remaining on active duty, shall continue to receive military pay and allowances and shall not receive the pay prescribed for such position. Funds from which such pay and allowances are paid shall be reimbursed from funds available to the Director of Central Intelligence.

"(d) DUTIES OF DEPUTY DIRECTORS.—(1)(A) The Deputy Director of Central Intelligence shall assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act.

"(B) The Deputy Director of Central Intelligence shall act for, and exercise the powers of, the Director of Central Intelligence during the Director's absence or disability or during a vacancy in the position of the Director of Central Intelligence.

"(2) The Deputy Director of Central Intelligence for Community Management shall, subject to the direction of the Director of Central Intelligence, be responsible for the following:

"(A) Directing the operations of the Community Management Staff.

"(B) Through the Assistant Director of Central Intelligence for Collection, ensuring the efficient and effective collection of national intelligence using technical means and human sources.

"(C) Through the Assistant Director of Central Intelligence for Analysis and Production, conducting oversight of the analysis and production of intelligence by elements of the intelligence community.

"(D) Through the Assistant Director of Central Intelligence for Administration, performing community-wide management functions of the intelligence community, including the management of personnel and resources.

"(3)(A) The Deputy Director of Central Intelligence takes precedence in the Office of the Director of Central Intelligence immediately after the Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence for Community Management takes precedence in the Office of the Director of Central Intelligence immediately after the Deputy Director of Central Intelligence.

"(e) OFFICE OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—(1) There is an Office of the Director of Central Intelligence. The function of the Office is to assist the Director of Central Intelligence in carrying out the duties and responsibilities of the Director under this Act and to carry out such other duties as may be prescribed by law.

"(2) The Office of the Director of Central Intelligence is composed of the following:

"(A) The Director of Central Intelligence.

"(B) The Deputy Director of Central Intelligence.

"(C) The Deputy Director of Central Intelligence for Community Management.

"(D) The National Intelligence Council.

"(E) The Assistant Director of Central Intelligence for Collection.

"(F) The Assistant Director of Central Intelligence for Analysis and Production.

"(G) The Assistant Director of Central Intelligence for Administration.

"(H) Such other offices and officials as may be established by law or the Director of Central Intelligence may establish or designate in the Office.

"(3) To assist the Director in fulfilling the responsibilities of the Director as head of the intelligence community, the Director shall employ and utilize in the Office of the Director of Central Intelligence a professional staff having an expertise in matters relating to such responsibilities and may establish permanent positions and

appropriate rates of pay with respect to that staff.".

(b) CENTRAL INTELLIGENCE AGENCY.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 102, as amended by subsection (a), the following new section:

"CENTRAL INTELLIGENCE AGENCY

"SEC. 102A. There is a Central Intelligence Agency. The function of the Agency shall be to assist the Director of Central Intelligence in carrying out the responsibilities referred to in paragraphs (1) through (5) of section 103(d) of this Act.".

(c) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking out the item relating to section 102 and inserting in lieu thereof the following new items:

"Sec. 102. Office of the Director of Central Intelligence.

"Sec. 102A. Central Intelligence Agency.".

SEC. 806. NATIONAL INTELLIGENCE COUNCIL.

Section 103(b) of the National Security Act of 1947 (50 U.S.C. 403–3(b)) is amended—

(1) in paragraph (1)(B), by inserting ", or as contractors of the Council or employees of such contractors," after "on the Council";

(2) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and";

(3) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(4) by inserting after paragraph (3) the following new paragraph (4):

"(4) Subject to the direction and control of the Director of Central Intelligence, the Council may carry out its responsibilities under this subsection by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this subsection."; and

(5) in paragraph (5), as so redesignated, by adding at the end the following: "The Council shall also be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.".

SEC. 807. ENHANCEMENT OF AUTHORITY OF DIRECTOR OF CENTRAL INTELLIGENCE TO MANAGE BUDGET, PERSONNEL, AND ACTIVITIES OF INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Section 103(c) of the National Security Act of 1947 (50 U.S.C. 403–3(c)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph (1):

"(1) facilitate the development of an annual budget for intelligence and intelligence-related activities of the United States by—

"(A) developing and presenting to the President an annual budget for the National Foreign Intelligence Program; and

"(B) participating in the development by the Secretary of Defense of the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities Program;";

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President;".

(b) USE OF FUNDS.—Section 104(c) of the National Security Act of 1947 (50 U.S.C. 403–4(c)) is amended by adding at the end the following: "The Secretary of Defense shall consult with the Director of Central Intelligence before reprogramming funds made available under the Joint Military Intelligence Program.".

(c) PERIODIC REPORTS ON EXPENDITURES.—Not later than January 1, 1997, the Director of Central Intelligence and the Secretary of Defense shall prescribe guidelines to ensure prompt reporting to the Director and the Secretary on a periodic basis of budget execution data for all national, defense-wide, and tactical intelligence activities.

(d) DATABASE PROGRAM TRACKING.—Not later than January 1, 1999, the Director of Central Intelligence and the Secretary of Defense shall develop and implement a database to provide timely and accurate information on the amounts, purposes, and status of the resources, including periodic budget execution updates, for all national, defense-wide, and tactical intelligence activities.

(e) PERSONNEL, TRAINING, AND ADMINISTRATIVE ACTIVITIES.—Not later than January 31 of each year through 1999, the Director of Central Intelligence shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the policies and programs the Director has instituted under subsection (f) of section 104 of the National Security Act of 1947.

SEC. 808. RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

Section 105 of the National Security Act of 1947 (50 U.S.C. 403–5) is amended—

(1) in subsection (a), by inserting ", in consultation with the Director of Central Intelligence," after "Secretary of Defense" in the matter preceding paragraph (1); and

(2) by adding at the end the following:

"(d) ANNUAL EVALUATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence, in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, shall submit each year to the Committee on Foreign Intelligence of the National Security Council and the appropriate congressional committees (as defined in section 109(c) of this Act) an evaluation of the performance and the responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their national missions.".

SEC. 809. IMPROVEMENT OF INTELLIGENCE COLLECTION.

(a) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—Section 102 of the National Security Act of 1947, as amended by section 805(a) of this Act, is further amended by adding at the end the following:

"(f) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR COLLECTION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Collection who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Collection shall assist the Director of Central Intelligence in carrying out the Director's collection responsibilities in order to ensure the efficient and effective collection of national intelligence.".

(b) CONSOLIDATION OF HUMAN INTELLIGENCE COLLECTION ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence and the Deputy Secretary of Defense shall jointly submit to the Committee on Armed Services and the Select Committee on Intelligence of the Senate and the Committee on National Security and the Permanent Select Committee on Intelligence of the House of Representatives a report on the ongoing efforts of those officials to achieve commonality, interoperability, and, where practicable, consolidation of the collection of clandestine intelligence from human sources conducted by the Defense Human Intelligence Service of the Department of Defense and the Directorate of Operations of the Central Intelligence Agency.

SEC. 810. IMPROVEMENT OF ANALYSIS AND PRODUCTION OF INTELLIGENCE.

Section 102 of the National Security Act of 1947, as amended by section 809(a) of this Act, is further amended by adding at the end the following:

"(g) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ANALYSIS AND PRODUCTION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Analysis and Production who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Analysis and Production shall—

"(A) oversee the analysis and production of intelligence by the elements of the intelligence community;

"(B) establish standards and priorities relating to such analysis and production;

"(C) monitor the allocation of resources for the analysis and production of intelligence in order to identify unnecessary duplication in the analysis and production of intelligence;

"(D) identify intelligence to be collected for purposes of the Assistant Director of Central Intelligence for Collection; and

"(E) provide such additional analysis and production of intelligence as the President and the National Security Council may require.".

SEC. 811. IMPROVEMENT OF ADMINISTRATION OF INTELLIGENCE ACTIVITIES.

Section 102 of the National Security Act of 1947, as amended by section 810 of this Act, is further amended by adding at the end the following:

"(h) ASSISTANT DIRECTOR OF CENTRAL INTELLIGENCE FOR ADMINISTRATION.—(1) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be an Assistant Director of Central Intelligence for Administration who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Assistant Director for Administration shall manage such activities relating to the administration of the intelligence community as the Director of Central Intelligence shall require.".

SEC. 812. PAY LEVEL OF DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE FOR COMMUNITY MANAGEMENT AND ASSISTANT DIRECTORS OF CENTRAL INTELLIGENCE.

(a) EXECUTIVE SCHEDULE III PAY LEVEL.—Section 5314 of title 5, United States Code, is amended by striking out item the relating to the Deputy Director of Central Intelligence and inserting in lieu thereof the following:

"Deputy Directors of Central Intelligence (2).".

(b) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Directors of Central Intelligence (3).".

SEC. 813. GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) IN GENERAL.—The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following:

"GENERAL COUNSEL OF THE CENTRAL INTELLIGENCE AGENCY

"SEC. 20. (a) There is a General Counsel of the Central Intelligence Agency, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The General Counsel is the chief legal officer of the Central Intelligence Agency.

"(c) The General Counsel of the Central Intelligence Agency shall perform such functions as the Director of Central Intelligence may prescribe.".

(b) APPLICABILITY OF APPOINTMENT REQUIREMENTS.—The requirement established by section 20 of the Central Intelligence Agency Act of 1949, as added by subsection (a), for the appointment by the President, by and with the advice and consent of the Senate, of an individual to the position of General Counsel of the Central Intelligence Agency shall apply as follows:

(1) To any vacancy in such position that occurs after the date of the enactment of this Act.

(2) To the incumbent serving in such position on the date of the enactment of this Act as of the date that is six months after such date of enactment, if such incumbent has served in such position continuously between such date of enactment and the date that is six months after such date of enactment.

(c) EXECUTIVE SCHEDULE IV PAY LEVEL.—Section 5315 of title 5, United States Code, as amended by section 812 of this Act, is further amended by adding at the end the following:

"General Counsel of the Central Intelligence Agency.".

SEC. 814. ASSISTANCE FOR LAW ENFORCEMENT AGENCIES BY INTELLIGENCE COMMUNITY.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105 the following new section:

"ASSISTANCE TO UNITED STATES LAW ENFORCEMENT AGENCIES

"SEC. 105A. (a) AUTHORITY TO PROVIDE ASSISTANCE.—Subject to subsection (b), elements of the intelligence community may, upon the request of a United States law enforcement agency, collect information outside the United States about individuals who are not United States persons. Such elements may collect such information notwithstanding that the law enforcement agency intends to use the information collected for purposes of a law enforcement investigation or counterintelligence investigation.

"(b) LIMITATION ON ASSISTANCE BY ELEMENTS OF DEPARTMENT OF DEFENSE.—(1) With respect to elements within the Department of Defense, the authority in subsection (a) applies only to the following:

"(A) The National Security Agency.

"(B) The National Reconnaissance Office.

"(C) The National Imagery and Mapping Agency.

"(D) The Defense Intelligence Agency.

"(2) Assistance provided under this section by elements of the Department of Defense may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.

"(3) Assistance may not be provided under this section by an element of the Department of Defense if the provision of such assistance will adversely affect the military preparedness of the United States.

"(4) The Secretary of Defense shall prescribe regulations governing the exercise of authority under this section by elements of the Department of Defense, including regulations relating to the protection of sources and methods in the exercise of such authority.

"(c) DEFINITIONS.—For purposes of subsection (a):

"(1) The term 'United States law enforcement agency' means any department or agency of the Federal Government that the Attorney General designates as law enforcement agency for purposes of this section.

"(2) The term 'United States person' means the following:

"(A) A United States citizen.

"(B) An alien known by the intelligence agency concerned to be a permanent resident alien.

"(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens.

"(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 105 the following new item:

"Sec. 105A. Assistance to United States law enforcement agencies.".

SEC. 815. APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES.

(a) IN GENERAL.—Section 106 of the National Security Act of 1947 (50 U.S.C. 403-6) is amended to read as follows:

"APPOINTMENT OF OFFICIALS RESPONSIBLE FOR INTELLIGENCE-RELATED ACTIVITIES

"SEC. 106. (a) CONCURRENCE OF DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the Director of Central Intelligence before recommending to the President an individual for appointment to the position. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the National Security Agency.

"(B) The Director of the National Reconnaissance Office.

"(C) The Director of the National Imagery and Mapping Agency.

"(b) CONSULTATION WITH DCI IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the Director of Central Intelligence before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy.

"(2) Paragraph (1) applies to the following positions:

"(A) The Director of the Defense Intelligence Agency.

"(B) The Assistant Secretary of State for Intelligence and Research.

"(C) The Director of the Office of Nonproliferation and National Security of the Department of Energy.

"(3) In the event of a vacancy in the position of the Assistant Director, National Security Division of the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation shall provide timely notice to the Director of Central Intelligence of the recommendation of the Director of the Federal Bureau of Investigation of an individual to fill the position in order that the Director of Central Intelligence may consult with the Director of the Federal Bureau of Investigation before the Attorney General appoints an individual to fill the vacancy.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking out the item relating to section 106 and inserting in lieu thereof the following new item:

"Sec. 106. Appointment of officials responsible for intelligence-related activities.".

SEC. 816. STUDY ON THE FUTURE OF INTELLIGENCE COLLECTION.

(a) STUDY.—The Director of Central Intelligence shall, in consultation with the Deputy Secretary of Defense, conduct a study on the future of intelligence collection. The study shall address whether collection resources can be managed in a more consolidated, integrated manner. The study is not limited to, but should include, specific examination of the following:

(1) Establishing within the Intelligence Community a single agency with responsibility for—

(A) the clandestine collection of intelligence through human sources and other clandestine techniques;

(B) covert action; and

(C) representing the Director of Central Intelligence in liaison with foreign intelligence and security services.

(2) Establishing a single agency for the conduct of technical intelligence collection activities, including—

(A) signals intelligence (SIGINT), imagery intelligence (IMINT), and measurement and signatures intelligence (MASINT);

(B) first-phase (or initial) exploitation of the results of such collection;

(C) dissemination of such collection in a timely manner;

(D) development of processing and exploitation technologies to support these functions; and

(E) serving as the sole agent within the Intelligence Community for—

(i) the specification of technical requirements for such reconnaissance systems as may be needed to meet the signals intelligence, imagery intelligence, and measurement and signatures intelligence collection requirements of the Intelligence Community; and

(ii) the operation and final disposition of such systems.

(3) Establishing a single agency—

(A) to serve as the sole agent within the Intelligence Community for the conduct of research, development, test, and evaluation, for procurement, and for launch of satellite reconnaissance systems that may be required to satisfy the intelligence collection requirements of the Intelligence Community; and

(B) to serve as the primary agent within the Intelligence Community for the conduct of research, development, test, evaluation and for procurement of reconnaissance, surveillance, and sensor systems, including airborne and maritime reconnaissance capabilities within the National Foreign Intelligence Program and the Joint Military Intelligence Program.

(b) CRITERIA.—The study under subsection (a) shall—

(1) take into account current and future technological capabilities and intelligence requirements;

(2) take into account the costs and benefits associated with establishing each of the agencies described in paragraphs (1) through (3) of subsection (a) as well as the costs and benefits of maintaining the current system of distinct "collection stovepipes"; and

(3) examine establishing each of the agencies described in paragraphs (1) through (3) of subsection (a) both on their individual merits and also with a view toward having such agencies co-exist as an entire new organizational structure.

(c) REPORT.—Not later than April 15, 1997, the Director of Central Intelligence shall submit a report on the study to the following:

(1) The President.

(2) The Secretary of Defense,

(3) The Select Committee on Intelligence and the Committee on Armed Services of the Senate.

(4) The Permanent Select Committee on Intelligence and the Committee on National Security of the House of Representatives.

SEC. 817. INTELLIGENCE RESERVE CORPS.

(a) REPORT ON CORPS.—Not later than four months after the date of the enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a report on the Surge Augmentation Program to provide for an Intelligence Reserve Corps to serve as a surge or augmentation resource for the Intelligence Community. The report shall include such recommendations for legislation as the Director considers appropriate.

(b) APPROPRIATE COMMITTEES DEFINED.—In this section, the term "appropriate committees of Congress" means the following:

(1) The Committee on Governmental Affairs and the Select Committee on Intelligence of the Senate.

(2) The Committee on Government Reform and Oversight and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IX—FINANCIAL MATTERS

SEC. 901. AUTHORIZATION OF FUNDING PROVIDED BY 1996 SUPPLEMENTAL APPROPRIATIONS ACT.

Amounts obligated or expended for intelligence or intelligence-related activities based on and otherwise in accordance with the appropriations provided by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134), including any such obligations or expenditures occurring before the enactment of this Act, shall be deemed to have been specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) and are hereby ratified and confirmed.

And the Senate agree to the same.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committed to the conference:

LARRY COMBEST,
ROBERT K. DORNAN,
BILL YOUNG,
JAMES V. HANSEN,
JERRY LEWIS,
PORTER J. GOSS,
BUD SHUSTER,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
NORMAN D. DICKS,
BILL RICHARDSON,
JULIAN C. DIXON,
ROBERT TORRICELLI,
RONALD D. COLEMAN,
DAVID SKAGGS,
NANCY PELOSI,

From the Committee on National Security, for consideration of defense tactical intelligence and related agencies:

BOB STUMP,
FLOYD SPENCE,
Managers on the Part of the House.

ARLEN SPECTER,
DICK LUGAR,
RICHARD SHELBY,
MIKE DEWINE,
JON KYL,
J.M. INHOFE,
KAY BAILEY HUTCHISON,
BILL COHEN,
HANK BROWN,
BOB KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
CHARLES S. ROBB,

From the Committee on Armed Services:

STROM THURMOND,
SAM NUNN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 for intelligence and the intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION FOR APPROPRIATIONS

Section 101 of the conference report lists the departments, agencies, and other elements of the United States Government for whose intelligence and intelligence-related activities the Act authorize appropriations for fiscal year 1997.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS

Section 102 of the conference report makes clear that the details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and applicable personnel ceilings covered under this title for fiscal year 1997 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section. The details of the Schedule are explained in the classified annex to this report.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS

Section 103 of the conference report authorizes the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, in fiscal year 1997 to exceed the personnel ceilings applicable to the components of the Intelligence Community under section 102 by an amount not to exceed two percent of the total of the ceilings applicable under section 102. The Director may exercise this authority only when doing so is necessary to the performance of important intelligence functions. Any exercise of this authority must be reported to the two intelligence committees of the Congress.

The conferees emphasize that the authority conferred by Section 103 is not intended to permit the wholesale raising of personnel strength in any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this bill.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT

Section 104 of the conference report authorizes appropriations for the Community Management Account of the Director of Central Intelligence and sets the personnel end-strength for the Intelligence Community Management Staff for fiscal year 1997.

Subsection (a) authorizes appropriations of $131,116,000 for fiscal year 1997 for the activities of the Community Management Account (CMA) of the Director of Central Intelligence. This amount includes funds identified for the Advanced Research and Development Committee, which shall remain available for two years.

Subsection (b) authorizes 303 full-time personnel for the Community Management Staff for fiscal year 1997 and provides that such personnel may be permanent employees of the Staff or detailed from various elements of the United States Government.

Subsection (c) requires that personnel be detailed on a reimbursable basis except for temporary situations of less than one year.

Subsection (d) authorizes $27,000,000 of the total CMA to be made available for the National Drug Intelligence Center (NDIC) in Johnstown, Pennsylvania. Subsection (d) is similar to section 104(e) of the House bill. The House bill authorized 35 positions at NDIC to be funded in the National Foreign Intelligence Program (NFIP). The conferees agreed that these positions will continue to be funded in the Department of Defense Community Management Account.

The Attorney General and the DCI have agreed to designate the NDIC as an element of the intelligence community, pursuant to section 3(4)(J) of the National Security Act of 1947, and accordingly the DCI shall approve the NDIC budget before its incorporation into the NFIP, pursuant to Section 104(b) of the National Security Act. The conferees anticipate that, as with the budget for the National Security Division of the FBI, the DCI will ordinarily approve the Attorney General's proposed budget for the NDIC without change or will make changes in the NDIC budget only after consultation with the Attorney General. Moreover, even though NDIC will be funded in the NFIP, the conferees emphasize that the DCI should not exercise direction or control over the operations of the NDIC. The conferees note that section 103(d)(1) of the National Security Act provides that the Central Intelligence Agency shall have no "law enforcement powers." Although section 103(d)(1) specifically applies only to the CIA and not to the DCI, because the DCI is both head of the intelligence community and head of the CIA, the conferees believe it is important that the DCI not appear to be involved in managing law enforcement activities. Accordingly, section 104(d) of the conference report makes clear that amounts appropriated for the NDIC may not be used in contravention of section 103(d)(1) of the Act.

Subsection (e) authorizes $18,000,000 of the total CMA to be made available for the Environmental Intelligence and Applications Program, formerly known as the Environmental Task Force, to remain available for two years.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Section 201 authorizes appropriations in the amount of $184,200,000 for fiscal year 1997 for the Central Intelligence Agency Retirement and Disability Fund.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

Section 301 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 301 is identical to section 301 of the House bill and section 301 of the Senate amendment.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

Section 302 provided that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity that is not otherwise authorized by the Constitution or laws of the United States. Section 302 is identical to section 302 of the House bill and section 302 of the Senate amendment.

SEC. 303. LIMITATION OF AVAILABILITY OF FUNDS FOR AUTOMATIC DECLASSIFICATION OF RECORDS OVER 25 YEARS OLD

Section 303 limits the availability of funds authorized to be appropriated in the National Foreign Intelligence Program to $27.2 million for the purpose of carrying out Section 3.4 of Executive Order 12958, which directs the automatic declassification of documents older than 25 years. The provision is similar to section 303 of the House bill. The Senate amendment contained no similar provision.

The conferees urge the Director of Central Intelligence to appoint one individual within the Community Management Staff to oversee programs to implement Section 3.4 in the intelligence community. This individual should be charged with ensuring the programs are making progress on the substantial task ahead of declassifying thousands of older documents while adequately protecting intelligence sources and methods. The individual should coordinate the preparation by the individual NFIP programs of the programs' FY 1998 budget requests for funds to implement Section 3.4.

SEC. 304. APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

Section 304 of the conference report extends until January 6, 1998 the authority granted by section 303 of the Intelligence Authorization Act for Fiscal Year 1996 for the President to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action when the President determines and reports to Congress that to proceed without delay would seriously risk the compromise of an intelligence source or method or an ongoing criminal investigation. Section 304 is identical to Section 303 of the Senate amendment and similar to section 304 of the House bill.

SEC. 305. EXPEDITED NATURALIZATION

Section 305 provides for naturalization of certain applicants without their having met the normal statutory requirements relating to continuous residency and physical presence in the United States and lack of recent affiliation with the Communist Party or other totalitartion organization. The section would apply to the spouse, son, or daughter of a deceased alien whose death resulted from the intentional and unauthorized disclosure of classified information (such as by convicted spy Aldrich Ames) regarding the alien's participation in U.S. intelligence activities. Existing law provides for expedited naturalization for aliens who themselves have made extraordinary contributions to the national security of the United States or to U.S. intelligence activities.

Naturalization benefits under this provision would have to be approved by the Director of Central Intelligence, the Attorney General, and the Commissioner of Immigration and Naturalization. Expedited naturalization would not be available, however, to aliens whom the Attorney General determines to have engaged in racial, religious, ethnic, or political persecution or to constitute a danger to the community or to the security of the United States.

Section 305 is identical to Section 305 of the House bill. The Senate amendment had no similar provision.

SEC. 306. SENSE OF THE CONGRESS ON INTELLIGENCE IDENTITIES PROTECTION ACT

Section 306 expresses the sense of the Congress that the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) should be enforced by appropriate law enforcement agencies. The provision is identical to Section 306 of the House bill. The Senate amendment had no similar provision.

The Intelligence Identities Protection Act makes it a crime for anyone with authorized access to classified information identifying a covert agent of the United States to disclose any information identifying that agent to an individual not authorized to receive classified information, knowing that information identifies the covert agent and that the U.S. is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States.

The conferees believe the Act should be enforced. The provision reflects concern about the apparent unwillingness of the Department of Justice to enforce the Act in several recent cases involving public officials and journalists. The conferees recognize that the decision whether to bring a prosecution under the Identities Act involves careful consideration of: whether each element of the offense can be proven; in those cases in which it is determined that each element of the offense can be proven, the need to deter future unauthorized disclosures; and an assessment of the risk of additional disclosures of classified information at trial. The conferees believe the Classified Information Procedures Act, enacted by Congress in 1980, can be used effectively to lessen the risks with using classified information in criminal trials. The conferees further believe that concerns about possible additional disclosures at trial should not be the sole determinant of whether the Identities Act is enforced.

In addition to the disclosures of agent identities, the conferees are concerned about the apparent increase in the public disclosure of sensitive national security information generally. These disclosures have placed lives at risk and, in at least one instance, may have contributed to a number of deaths. The intelligence oversight committees have expressed intense concern to both the DCI and the Justice Department and will continue to exercise appropriate oversight into the measures and policies for safeguarding sensitive information.

SEC. 307. INTELLIGENCE COMMUNITY PROCUREMENT

Section 307 expresses the sense of the Congress that the Director of Central Intelligence should continue to direct elements of the intelligence community to award contracts in a manner that would maximize the procurement of products produced in the United States, when such action is compatible with the national security interests of the United States, consistent with operational and security concerns, and fiscally sound. A provision similar to Section 307 has been contained in previous intelligence authorization acts. Section 307 is similar in intent to Sections 307 through 309 of the House bill. The Senate amendment had no similar provision.

SEC. 308. RESTRICTIONS ON INTELLIGENCE SHARING WITH THE UNITED NATIONS

Section 308 reflects the desire of the conferees to improve oversight over the sharing of U.S. intelligence with the United Nations and the safeguarding of such intelligence by the U.N. through improved security practices. The provision prohibits sharing of intelligence with the U.N. unless the President certifies that (1) procedures are in place to protect information provided from unauthorized disclosure of U.S. intelligence sources and methods, or (2) that providing such information is in the U.S. national interest. It also requires the President to provide semiannual reports to Congress on the types and volume of intelligence information provided to the U.N. and to report to Congress any unauthorized disclosure of intelligence information provided.

The provision is identical to Section 310 of the House bill. The Senate amendment had no similar provision.

SEC. 309. PROHIBITION ON USING JOURNALISTS AS AGENTS OR ASSETS

Section 309 of the conference report would codify as policy of the United States that the intelligence community may not use as an agent or asset for intelligence collection purposes any individual who is either: authorized by contract or the issuance of press credentials to represent himself or herself, either in the United States or abroad, as a correspondent of a United States news media organization or is officially recognized by a foreign government as a representative of a United States media organization. The prohibition against the use of such individuals as intelligence agents or assets is not to exclude the voluntary cooperation of any person who is aware that the cooperation is being provided to an element of the intelligence community. Additionally, under such procedures as the President shall promulgate, the prohibition against the use of journalists may be waived by either the President or the Director of Central Intelligence (DCI) if he or she determines in writing that the waiver is necessary to address the overriding national security interests of the United States. The congressional intelligence committees shall be notified of any waivers provided under this section.

Section 309 is similar to section 311 of the House bill. The Senate amendment did not contain a similar provision.

The conferees recognize the dangers faced by journalists working overseas if they are suspected of being spies. Section 309 is intended to mitigate that danger to the maximum extent possible while providing the flexibility to deal with those extremely rare

circumstances in which the national security interests of the United States can best be promoted by utilizing the voluntary cooperation of a journalist.

SEC. 310. REPORT ON INTELLIGENCE COMMUNITY POLICY ON PROTECTING THE NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACKS

Section 301 requires the DCI to submit a report to Congress on the threats to the national information infrastructure from information warfare and other nontraditional attacks by foreign nations, groups, or individuals or other groups or individuals. Section 310 is similar to Section 719 of the Senate amendment except for drafting modifications. The House bill did not contain a similar provision.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. ELIMINATION OF DOUBLE SURCHARGE ON THE CENTRAL INTELLIGENCE AGENCY RELATING TO EMPLOYEES WHO RETIRE OR RESIGN IN FISCAL YEAR 1998 OR 1999 AND WHO RECEIVE VOLUNTARY SEPARATION INCENTIVE PAYMENTS

Section 401 corrects a discrepancy in existing law which currently requires the CIA to make double payments to the Civil Service Retirement and Disability Fund for those Agency employees who take an early retirement. Section 4(a) of the Federal Workforce Restructuring Act (FWRA) requires agencies that offer retirement incentives, including CIA, to pay to the Fund 9 percent of the final basic pay of each employee who takes an early retirement. In addition, section (2)(i) of the CIA Voluntary Separation Pay Act (CVSPA), enacted as part of the Intelligence Authorization Act for Fiscal Year 1996, requires the CIA to make a 15 percent payment for each employee who takes an early retirement.

It was not Congress' intent to have CIA make double payments totalling 24 percent to the Fund. Accordingly, Section 401 of the conference report provides that the 15 percent payment CIA is required to pay under CVSPA is in lieu of the 9 percent payment required under the FWRA.

Section 401 is identical to section 402 of the House bill. The Senate amendment did not contain a similar provision.

SEC. 402. POST-EMPLOYMENT RESTRICTIONS

Section 402 of the conference report requires the Director of Central Intelligence to issue regulations requiring designated employees of the Central Intelligence Agency to sign written agreements committing not to represent or advise, for a period of three years after that employee's termination of employment with the CIA, the government or political party of any foreign country.

Section 402 is similar to Section 304 of the Senate amendment. The House bill did not contain a similar provision. The conferees agreed to a provision that is narrower than the Senate amendment in two respects. First, the written agreements would be required only of certain designated officials. The conferees expect that the DCI would designate senior Agency officials or others who have had significant contact with foreign governments such that their representation of a foreign government immediately after their cessation of employment with the Agency might create the appearance of a conflict of interest. Second, the restrictions would apply only for a period of three years, rather than five, following the employee's departure from CIA. The conferees have also modified the provision to allow the DCI to permit an employee to represent or advise a foreign government if the DCI determines that it would be in the best interest of the United States (for example, to allow a former CIA employee to assist an allied government with which the U.S. has a close liaison relationship).

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. EXECUTIVE BRANCH OVERSIGHT OF BUDGETS OF ELEMENTS OF THE INTELLIGENCE COMMUNITY

Section 501 requires the President to submit a report to Congress on actions that have been taken to ensure adequate oversight by the executive branch of the budget and expenditures of the National Reconnaissance Office and other elements of the intelligence community within the Department of Defense. The provision is identical to Section 305 of the Senate amendment. The House bill did not contain a similar provision.

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. ACCESS TO TELEPHONE RECORDS

Section 601 amends Sections 2703 and 2709 of Title 18, United States Code to clarify that the "telephone toll billing records" which the Federal Bureau of Investigation may subpoena in certain law enforcement investigations include not only *long distance* but also *local* billing records. Section 601 also amends Section 2707 of Title 18 to allow courts to award punitive damages, and to institute disciplinary actions against employees of U.S. agencies or departments, for violations of Chapter 121 of Title 18.

Section 601 is identical to Section 401 of the Senate amendment. The House bill did not contain a similar provision.

TITLE VII—COMBATTING PROLIFERATION

Title VII contains a number of provisions relating to proliferation of weapons of mass destruction. Sections 711 through 717 establish and define the duties of a Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction. The eight members of the Commission are to be appointed by the President and the congressional leadership. The Commission is required to conduct a study of the organization of the federal government, including the intelligence community, for combatting weapons proliferation. Section 711 of the conference report sets forth a specific list of issues for the Commission to address. The Commission is required to submit a report to Congress not later than eighteen months after enactment of this legislation. The conferees modified Section 717 to provide that commission expenses shall be paid out of funds available to the DCI for the payment of compensation, travel allowances, and per diem of CIA employees.

Section 721 of the conference report requires the Director of Central Intelligence to submit a semiannual report to Congress on the acquisition by foreign countries of technology for the development of weapons of mass destruction and advanced conventional munitions.

Title VII of the conference report is similar to Title VI of the Senate amendment. The House bill contained no similar provision.

TITLE VIII—RENEWAL AND REFORM OF INTELLIGENCE ACTIVITIES

Title VIII of the conference report contains provisions intended to make the Intelligence Community operate more effectively and more efficiently in the post-Cold War world. These provisions would create two committees of the National Security Council, one to provide better guidance to the intelligence community and the other to provide senior-level guidance on issues raised by the intersection of law enforcement and intelligence, particularly relating to terrorism, narcotics trafficking, and weapons proliferation. In addition, provisions in this section strengthen the ability of the Director of Central Intelligence to manage the Intelligence Community by codifying his authority to participate in the development of the budgets for defense-wide and tactical intelligence and to concur or be consulted with respect to the appointments of the heads of the principal NFIP agencies. Giving the DCI a database of all intelligence activities and requiring all NFIP elements to submit periodic budget execution reports should enable the DCI to make better use of his existing authorities—given to him by Congress in 1992—to approve the budgets of NFIP elements and to transfer funds and personnel with the concurrence of affected agency heads. The conferees urge the DCI to be more assertive in using these authorities. The bill also establishes a new Senate-confirmed Deputy Director of Central Intelligence for Community Management and three new Senate-confirmed Assistant Directors of Central Intelligence to assist the DCI in managing the Intelligence Community. Finally, the conference report clarifies the authority of intelligence collection agencies to provide support to law enforcement agencies.

Title VIII is similar to Title VII of the Senate amendment. As originally reported by the Senate Intelligence Committee as part of S. 1718, Title VII would have given the DCI budget execution authority over most elements of the National Foreign Intelligence Program; authority to reprogram funds among NFIP programs over the objection of the affected department head; authority to manage the national collection activities of the intelligence community; and shared responsibility—with the Secretary of Defense—for managing the National Security Agency, the National Reconnaissance Office, and the Central Imagery Office. After extensive discussions with the Senate Armed Services Committee, the Senate Intelligence Committee agreed to drop or modify a number of these provisions.

Although the House bill, H.R. 3259, contained no similar provisions, the House Permanent Select Committee on Intelligence also undertook a major review of the roles, functions, and structure of the intelligence community during the 104th Congress. On April 9, 1996, the House Committee released a study entitled "IC21: Intelligence Community in the 21st Century," which set forth the findings and recommendations of the Committee staff. On June 13, 1996, the House Committee reported H.R. 3237, which would have enacted many of the recommendations of the staff study and would have made significant changes to the current organization of the intelligence community. The House National Security Committee, which took H.R. 3237 on sequential referral, deleted many of these provisions, and the bill was never brought to the House floor.

The conferees believe that the provisions of Title VIII will help ensure that various elements of the intelligence community operate more cohesively and without unnecessary duplication. That the conferees agreed to more limited organizational changes this year does not mean that some of the more far-reaching changes proposed by S. 1718 and H.R. 3237 are without merit. To the contrary, the provisions in both bills were the culmination of exhaustive study by both committees as well as by the Commission on the

Roles and Capabilities of the U.S. Intelligence Community, the 17-member congressionally chartered commission which submitted its report to Congress on April 1, 1996, and deserve further consideration. The conferees specifically agreed that the DCI should study the establishment of an Intelligence Community Reserve and that the DCI and the Secretary of Defense should study the feasibility of creating a single technical collection agency as well as other specified agencies—the creation of which was recommended by the IC-21 study. The conferees anticipate that some of the other provisions in S. 1718 and H.R. 3237 that were not enacted this year will be taken up again in the 104th Congress.

SECTION 801

Section 801 contains the short title VIII, the "Intelligence Renewal and Reform Act of 1996."

SECTION 802

Section 802 amends Section 101 of the National Security Act of 1947 to create a Committee on Foreign Intelligence of the National Security Council. Section 802 is identical to Section 702 of the Senate amendment.

SECTION 803

Section 803 amends Section 109 of the National Security Act to require the President to submit an annual report to Congress on U.S. intelligence requirements and priorities and the performance of the U.S. Intelligence Community. Section 803 is identical to Section 703 of the Senate amendment.

SECTION 804

Section 804 amends Section 101 of the National Security Act of 1947 to create a Committee on Transnational Threats of the National Security Council. Section 804 is identical to Section 704 of the Senate amendment.

The Committee on Transnational Threats would identify transnational threats; develop strategies to respond to them in a coordinated way; assist in resolving operational differences among federal departments and agencies; develop policies and procedures to ensure the effective sharing of information among federal departments and agencies, including between the law enforcement and foreign policy communities; and develop guidelines for coordination of federal law enforcement and intelligence activities overseas.

The conferees note, that in response to the growth in global crime and the increasing number of U.S. statutes with extraterritorial application, the Federal Bureau of Investigation is significantly expanding its presence and activities outside the United States. The conferees are interested in the growth of these activities and the degree to which Bureau investigations, recruitment of assets, liaison with foreign intelligence services, and operational activities are coordinated with U.S. intelligence agencies. Accordingly, the conferees direct that, beginning no later than February 1, 1997, the Director of the Federal Bureau of Investigation shall submit an annual report to the appropriate congressional committees regarding the activities of the Bureau outside the United States. The report shall specify the number of Bureau personnel posted or detailed outside the United States and the extend to which the Bureau plans to increase the number of such personnel and/or the scope of its overseas activities. The report should describe how Bureau overseas investigations, asset handling, liaison, and operational activities are coordinated with the Intelligence Community, and the extent to which information derived from such activities is or will be shared with the Intelligence Community. The intelligence committees plan to monitor these matters closely.

SECTION 805

Section 705 of the Senate amendment would have amended Section 102 of the National Security Act of 1947 to add a new subsection (d) to establish an Office of the Director of Central Intelligence to include the DCI, the DDCI; the newly established positions of Assistant DCI for Collection, Assistant DCI for Analysis and Production, Assistant DCI for Administration, the National Intelligence Council, and such other offices as the DCI may designate.

The conferees agreed to accept the provisions in the Senate amendment with the addition of a new Deputy Director for Community Management (DDCI/CM), to whom the three new Assistant Directors would report. This DDCI for Community Management will be appointed by the President and confirmed by the Senate. This Deputy will work under the direction of the DCI and is responsible for assisting him in carrying out his responsibilities as head of the Intelligence Community. The DDCI/CM will manage a community management staff and direct community-wide functions, including personnel, resources, requirements, collection, research and development, and analysis and production.

The conferees recognize that there is always the potential that positions requiring Presidential appointment and Senate confirmation may be subject to inappropriate political pressures. This is of particular concern with respect to the Assistant Director of Central Intelligence for Analysis and Production. Nevertheless, the conferees believe the significant advantages in terms of stature and congressional oversight afforded by making this a confirmable position outweigh that potential concern. Moreover, the intelligence oversight committees will be vigilant in their efforts to ensure there is no politicization of these positions. The extensive focus on charges of politicization during the Senate confirmation of Robert Gates to be the DCI in 1991 demonstrates the seriousness with which the Congress views this issue. In reviewing potential nominees for any of the confirmable positions within the Intelligence Community and in the course of its oversight, the Congress will look carefully for any evidence that an individual has tailored his or her views to curry favor with the Administration or Congress, or that an individual has suffered retribution for failing to succumb to political pressure.

As amended by Section 805, section 102(d)(3) of the National Security Act directs the DCI to employ and utilize a professional staff to assist him in carrying out his Community-wide responsibilities. This staff would be part of the Office of the DCI. The staff could, at the DCI's discretion, operate as a unit, or be divided among the Deputy Director for Community Management and the three new Assistant DCIs. The conferees anticipate that this staff would replace the functions of the current Community Management Staff and, while it should include some detailees from the Intelligence Community, would consist primarily of a core staff of career professionals.

Section 805 also transfer the current section 102(a)(1) of the National Security Act, which establishes the Central Intelligence Agency, to a new section 102A of the National Security Act. Section 102A would reference Section 103(d), which sets forth the responsibilities of the Director of Central Intelligence as head of the CIA.

SECTION 806

Section 806, concerning the National Intelligence Council, is identical to Section 706 of the Senate amendment except that the NIC would also specifically be directed to evaluate intelligence community-wide collection and production activities.

SECTION 807

Section 807 strengthens the DCI's authorities as head of the intelligence community. It gives the DCI authority to participate in the development by the Secretary of Defense of the annual budgets for JMIP and TIARA; authority to approve collection requirements, determine collection priorities, and resolve conflicts in collection priorities levied on national collection assets; and the right to be consulted by the Secretary of Defense with respect to reprogrammings of funds within the JMIP.

The provision also directs the DCI and the Secretary of Defense to develop, no later than January 1, 1999, a database of all intelligence and intelligence-related programs and activities, which would specify the purpose of each program or activity and include information for past and future years on the types and quantities of resources planned, programmed, budgeted, and executed in support of specific objectives. The conferees noted that the Office of Science and Technology Policy within the White House has recently developed a database of all research and development activities within the federal government and that this database has been invaluable for identifying duplication among federal R&D programs. The conferees believe that the DCI has been hampered in his ability to manage the intelligence community by a lack of accurate and comprehensive information about all intelligence community activities. Development of a database for intelligence activities should gibe the DCI crucial analytical and supervisory tools he needs to provide better direction to and control over U.S. intelligence programs. The conferees have provided funding for the development of the database and urge the DCI and the Secretary of Defense to move ahead as quickly as possible.

Section 807 is similar to Section 707 of the Senate amendment. In addition to minor drafting changes, the provision has been modified to specifically require the DCI and the Secretary of Defense to prescribe guidelines to require reporting of budget execution data on all intelligence activities to the DCI and the Secretary of Defense. This is to ensure that this data is available to the DCI and Secretary of Defense during FY 1997 and is not held up pending development of the database.

In addition, a new subsection has been added requiring the DCI to submit an annual report to Congress, for the next three years, on the steps he has taken under Section 104(f) of the National Security Act to rotate personnel, and to consolidate personnel, administrative, and security programs, among intelligence community elements. The DCI was given this authority in 1992 but appears to be making little use of it.

SECTION 808

Section 808 is identical to Section 708 of the Senate amendment. The Section requires the DCI to submit to the Committee on Foreign Intelligence and the appropriate congressional committees an evaluation of the performance and responsiveness of the NSA,

NRO, and NIMA in meeting their national missions.

SECTION 809

Section 809(a) of the conference report adds a new subsection (f) to Section 102 of the National Security Act of 1947 to establish the position of Assistant Director of Central Intelligence for Collection. This position will be appointed by the President and confirmed by the Senate.

The ADCI for Collection will be one of three new Assistant Directors of Central Intelligence who will assist the DCI in carrying out his Community-wide management responsibilities. The ADCI for Collection will assist the DCI in carrying out his intelligence collection responsibilities. The ADCI for Collection will oversee all national intelligence collection activities, including identifying targets, setting priorities, and allocating resources where a particular intelligence collection discipline offers a comparative advantage. In performing this role, it is expected that the ADCI for Collection will be responsible for the effective and efficient operation of the interagency collection committees—including those focusing on IMINT, HUMINT, SIGINT, an MASINT—to ensure national collection requirements, priorities, and resources are consistent with intelligence consumer needs. Further, the ADCI for Collection will rely upon the ADCI for Analysis and Production for guidance on current collection requirements and for an assessment of the need for the acquisition of future collection capabilities. The ADCI for Collection will also assist in implementing the DCI's authorities regarding the procurement and operation of national collection systems under development by other agencies and assist the DCI in formulating plans and budgets of national collection activities.

Section 809(b) requires the DCI and the Deputy Secretary of Defense to submit, no later than 90 days after enactment of this Act, a report on their efforts to coordinate and, where practicable, consolidate the human intelligence collection activities of the clandestine collection elements of the Defense HUMINT Service and CIA's Directorate of Operations (DO). The conferees note that the Aspin-Brown Commission recommended that the clandestine HUMINT collection activities of the Defense HUMINT Service be consolidated into the DO. The report should address the desirability of such a consolidation.

SECTION 810

Section 810 adds a new section (g) to Section 102 of the National Security Act of 1947 to establish the position of Assistant Director of Central Intelligence for Analysis and Production. This position will be appointed by the President and confirmed by the Senate.

The ADCI for Analysis and Production will assist the DCI in overseeing analysis and production of intelligence by the Intelligence Community, establish priorities for analysis, and monitor the allocation of resources in order to eliminate unnecessary duplication in analysis and production thus ensuring timely delivery of intelligence products to consumers.

Intelligence analysis and production of analytical products is broadly dispersed across the Intelligence Community. Although some competitive analysis is necessary and some products are needed to serve only the needs of a single department or agency, most analysis supports the entire policy community. The DCI currently lacks an effective mechanism to review and supervise adequately intelligence analysis and production community-wide in order to ensure the most effective allocation of resources and to eliminate unnecessary duplication. Intelligence producers have worked together voluntarily to reduce overlaps, but the conferees believe that a better management structure is needed. The new ADCI for Analysis and Production would provide the basis for this structure. The conferees do not expect the ADCI for Analysis and Production to perform intelligence production functions or roles similar to those currently performed by the Chairman and members of the National Intelligence Council, CIA's Deputy Director for Intelligence, the Assistant Secretary of State for Intelligence & Research, or DIA's Director of Production.

SECTION 811

Section 811 adds a new subsection (h) to Section 102 of the National Security Act of 1947 to establish the position of Assistant Director of Central Intelligence for Administration. This position will be appointed by the President and confirmed by the Senate.

Numerous studies, including the Aspin-Brown Commission, have urged greater consolidation of personnel and administrative functions and use of common standards across the Intelligence Community. The largest agencies, nevertheless, continue to maintain separate administrative, personnel, security, and training systems. The Aspin-Brown Commission concluded "While the Commission is willing to accept that some latitude is needed for individual agencies to satisfy their unique requirements, we see no reason for all of these programs and activities to be administered separately, or, at least without greater uniformity." The conferees agree with this conclusion.

The role of the proposed ADCI for Administration would be to assist the DCI in bringing about this uniformity. The ADCI for Administration would coordinate the various personnel management systems, information systems, telecommunications systems, finance and accounting services, and security programs for the Intelligence Community. The conferees expect that the ADCI for Administration would also assist the DCI in exercising his authorities under Section 104(f) of the National Security Act to consolidate personnel, administrative, and security programs of Intelligence Community elements.

SECTION 812

Section 812 amends Section 5315 of Title 5, United States Code, to place the positions of Deputy Director of Central Intelligence and Deputy Director of Central Intelligence for Community Management at Executive Level III and the positions of Assistant Director of Central Intelligence for Collection, Assistant Director of Central Intelligence for Analysis and Production, Assistant Director of Central Intelligence for Administration, at Level IV of the Executive Schedule. Section 812 is similar to Section 712 of the Senate amendment.

SECTION 813

Section 813, which establishes the statutory position of General Counsel of the CIA, is identical to Section 713 of the Senate amendment, except that the conferees have modified the provision to provide that it shall take effect no later than six months from the date of enactment of this Act or upon the appointment of a General Counsel other than the individual occupying the position on the date of enactment of this Act, whichever is sooner. Thus, whoever occupies the non-statutory position of General Counsel at the time this provision is enacted may continue to occupy that position for up to six months after enactment before a formal nomination must be submitted to the Senate. Nothing in the provision would prevent the President from nominating the individual serving as non-statutory General Counsel at the time of enactment for the statutory General Counsel position. It is the intent of the conferees, however, that the President either nominate this individual to be the statutory General Counsel within six months of the date of enactment of this Act or, if this individual leaves the position of non-statutory General Counsel in less than six months, that the President nominate another individual to fill the statutory General Counsel position.

The conferees do not intend in any way that the establishment of the statutory General Counsel position limit the ability of the CIA Inspector General to obtain independent legal advice from members of the IG's staff or to otherwise carry out the duties of that office as provided for in section 17 of the CIA of 1949 (50 USC 403q). However, where an IG determination or report includes a legal opinion that differs from that of the CIA's Office of General Counsel, that difference of opinion should be noted. This would apply to reports presented to the DCI, briefings for Congress, or any other context in which IG legal opinions are presented.

SECTION 814

Section 814 creates a new Section 105A of the National Security Act that authorizes intelligence community elements to collect information about non-U.S. persons outside the United States at the request of U.S. law enforcement agencies. The section is identical to Section 715 of the Senate amendment, except that the Defense Intelligence Agency has been added to the list of Department of Defense agencies to which this provision applies.

SECTION 815

Section 815 amends Section 106 of the National Security Act to require the DCI to concur in, or be consulted regarding, the appointment of the heads of the principal NFIP elements. Section 815 is identical to Section 716 of the Senate amendment, with two modifications.

First, the Director of the National Imagery and Mapping Agency has been added to the list of agency heads for which DCA concurrence is required. This authority had originally been included separately in provisions relating to the appointment of the Director of NIMA. The conferees note that the conference report accompanying the National Defense Authorization Act for Fiscal Year 1997 also codifies the DCI's authority to concur in the appointments of the heads of NSA, NRO, and NIMA in Section 201 of Title 10, U.S. Code. The DOD bill also requires the DCI to provide to the Secretary of Defense an annual evaluation of the performance of the heads of NSA, NRO, and NIMA in fulfilling their responsibilities under the NFIP.

In addition, the conferees have modified the original Senate language regarding DCI consultation on the Assistant Director, National Security Division of the Federal Bureau of Investigation. This individual is selected by the Attorney General upon the recommendation of the Director of FBI. The bill now calls for timely notice to the DCI of the Director of FBI's recommendation regarding this position. The conferees understand that for the purposes of this section timely notice means notice will be provided at a sufficiently early stage in the process that consultation is still meaningful and that the

DCI will be provided sufficient time to respond to the notification prior to the recommendation being forwarded to the Attorney General. At the same time, the DCI should not use this opportunity for consultation as a means of delaying this process.

The conferees also emphasize that, by requiring the DCI to be consulted regarding the appointment of the head of the FBI's National Security Division, they do not intend to give the DCI control over FBI law enforcement activities. Nevertheless, the head of the National Security Division manages a significant portion, both in budgetary and substantive terms, of the NFIP, and the conferees believe it is wholly appropriate that the DCI have some voice in his or her appointment.

SECTION 816

Section 816 of the conference report directs the DCI, in consultation with the Deputy Secretary of Defense, to study the appropriate organization and management of intelligence collection for the future. A report on the study is to be forwarded to the President, the Secretary of Defense, and the appropriate Congressional committees no later than April 15, 1997. The conferees expect that the Assistant DCI for Collection will manage the production of this study on behalf of the DCI.

The study should examine how the Intelligence Community's collection apparatus can best function in the future, and not merely perform an examination of the effectiveness of the Intelligence Community at present or in the recent past, except to the extent such an examination illuminates the direction that must be taken in the future. The section specifies that the study must specifically include, but need not be limited to, feasibility studies of three changes to the current Intelligence Community structure: (1) the establishment of a Clandestine Service; (2) the establishment of a Technical Collection Agency; and (3) the establishment of a Technology Development Office.

The study should consider the merits of establishing a Clandestine Service responsible for the clandestine collection of intelligence through human sources and other clandestine means; the carrying out of covert action as directed by the President; and acting as the DCI's principal entity in carrying out liaison with foreign intelligence and security services. The study should keep in mind that this particular entity, the Clandestine Service (unlike the others under consideration), would have roles and missions outside the realm of intelligence collection. The study should also pay particular attention to the fact that a Clandestine Service's activities are, generally speaking, intrinsically risky and require the close oversight of the DCI. The study should also consider how military personnel might be integrated into a Clandestine Service in a manner allowing their proper career development and their being able to function as clandestine collectors under operational guidelines developed under DCI authorities.

The study should consider the costs and benefits associated with consolidating technical collection activities and exploitation into a single agency, not necessarily in one physical location but under a unified management structure. This agency would include all current signals intelligence, imagery intelligence and measurement and signatures intelligence collection and time-sensitive exploitation activities, including the operation of satellite collection systems. The study should consider whether consolidation would improve synergistic collection at the operator level, integrate multi-source tasking at the collection management level, and achieve cross-discipline trade-offs at the resources management level. The study should consider in particular how the agency as proposed would further or hinder these goals, and whether such a consolidation would further or hinder other identified goals for intelligence collection. This study should also examine whether the first-phase analysts exploiting the data collected for time-sensitive reporting should be integrated with the all-source analytical community and, if so, how.

The study should also consider the costs and benefits of consolidating research, development and acquisition activities for reconnaissance systems into a single agency responsible primarily for space-based, airborne and maritime reconnaissance systems. The study should consider whether consolidation would improve coherent development and complementary architectures, particularly in the space and air realms; promote development of common ground processing and dissemination capabilities; reduce unnecessary duplication; and promote the sharing of appropriate technologies.

Section 816 is a new provision. No similar provision was included in either the House bill or Senate amendment.

SECTION 817

Section 817 of the conference report requires the DCI to submit a report within four months of enactment describing the current efforts to establish a Surge Augmentation Program and making appropriate legislative recommendations.

The conferees believe that significant reductions in personnel and other resources throughout the Intelligence Community over the past few years, combined with significant increases in the need for intelligence information, have created a shortfall in analytic resources, especially in the areas of all-source analysis and linguists. Ad hoc crises, such as Rwanda and Somalia, further underscore the need for the Intelligence Community to be flexible enough to "surge" resources to meet immediate needs and to have a capability to augment existing resources in order to develop and maintain a worldwide "base" of knowledge. Such an intelligence "base" should allow for identification of trends and other changes that could portend future actions by U.S. policy makers. This warning function becomes critical both to the policy maker by providing adequate time to manage an impending situation before it develops into a crisis and to the military commander in cases where the proper policy response includes military activity. DCI Deutch has been addressing the same concerns in his "Hard Target/Global Coverage" efforts.

The conferees note that it is unlikely that internal Intelligence Community resources will ever be robust enough to meet all of the requirements that will be levied on them. The ability to augment existing resources with individuals who have intelligence experience and/or have maintained a level of substantive knowledge could prove invaluable in addressing what appears to be an ongoing pattern of small, often regional crises and situations. In this respect, a port of the Surge Augmentation Program, or "Intelligence Community Reserve," could operate similarly to existing military intelligence reserve resources, with periodic training and service within the Community in order to maintain expertise. In some cases, individuals who are our country's experts in certain areas are likely to be outside of the Intelligence Community—in industry or academia, for example—and should remain so in order to maintain their level of knowledge and contacts worldwide. In those cases, however, it would be extremely beneficial for the Intelligence Community to have access to this knowledge on an occasional basis. Although it is not envisioned that someone outside of the Intelligence Community would be asked to "serve" the Intelligence Community Reserve in the same capacity as those individuals who have had a prior association, it is envisioned that these "experts" might be held on a type of retainer requiring them to notify the Intelligence Community on a regular basis of significant trends and changes in their issue area. In addition, particular attention should be paid to building a linguistic "surge" capability, especially in more unique or less known languages, for use during crisis periods. Finally, the conferees believe that the Intelligence Community Reserve should be managed and funded at the Community level, ensuring that all valid "surge" requirements by all agencies/offices within the Intelligence Community are planned for and addressed as necessary.

Due to the complexities of issues such as pay, security, training and support, the conferees are not establishing the Reserve in legislation at this time. Instead, the DCI is directed to provide a report on current efforts and any legislation that might be considered by Congress.

Finally, the conferees note that the Intelligence Community Reserve is not envisioned as a panacea for addressing shortfalls in intelligence analytical expertise. Clearly, specific attention must be paid toward maintaining an experienced analytic workforce in specific subject areas that are of national security and policy concern.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. AUTHORIZATION OF FUNDING PROVIDED BY 1996 SUPPLEMENTAL APPROPRIATIONS ACT

Section 901 of the conference report is identical to section 601 of the House bill. The Senate amendment did not contain a similar provision. The section provides that funds appropriated as part of the supplemental appropriation in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 for intelligence, and intelligence-related activities in Bosnia shall be deemed to be specifically authorized for purposes of Section 504 of the National Security Act.

Provisions not included in the Conference Report

Multiyear leasing

Section 401 of the House bill would have amended the Central Intelligence Agency Act of 1949 to authorize the CIA to enter into multiyear leases for buildings and other facilities. However, an amendment added on the House floor would have required that the leases be fully funded in advance. As this requirement would have vitiated the effectiveness of the provision, the conferees agreed to drop it.

Intelligence Community personnel reforms

On April 23, 1996 DCI Deutch unveiled a CIA human resources reform initiative that will affect Intelligence Community personnel at the CIA and in various DoD agencies. The presentation of the personnel reform package had been long awaited by both intelligence committees as the DCI had stated on numerous occasions the priority he was attaching to revamping an ancient and antiquated personnel system. The sweeping nature of the CIA human resources reform proposal and the initial lack of specificity concerning its contents led the House Committee to include a provision in its bill (Section

403) to prevent expenditure of any funds until the Congress was fully briefed. The Senate amendment did not contain a similar provision. The CIA has now provided extensive briefings to both committees regarding its program; therefore, the conferees have agreed to drop the House provision.

The conferees have provided funding for the CIA personnel reform initiative albeit at a level substantially below the requested amount. The funding level is contained in the classified schedule of authorizations. The conferees concur with the CIA's view that the initial priorities should be the acquisition and installation of a new Human Resources Information System, the completion of a job skills analysis and implementation of associated training and educational programs.

The conferees initially understood that the CIA would issue a "Request for Proposal" (RFP) for the Human Resources Information System software component, but without informing the Congress, the CIA changed course and decided not to compete the contract. It is the view of the conferees that RFP's help to immunize the CIA from potential protests and enable the CIA, in the most transparent way possible, to identify the best contractor at the lower cost. Apparently, following a refinement of the requirements and the completion of an exhaustive market survey of the various software packages available, it was determined that only one vendor met and demonstrated the CIA's software requirements. Thus, the CIA expects to issue a single source contract in keeping with standard contracting procedures. It is the conferees understanding that the single source contract is for the acquisition of the software package only and that the systems integration, systems engineering and implementation components of the Human Resources Information System will be competitively bid. The conferees expect to be kept fully and currently informed of this process.

FOIA exemptions for certain defense agencies

Section 501 of the House bill would have amended and consolidated the information disclosure statutes for the Defense Intelligence Agency (DIA) and the National Reconnaissance (NRO), 10 U.S.C. 424 and 425 respectively, to permit the two organizations to withhold from release in response to Freedom of Information Act (FOIA) requests unclassified information relating to those agencies' organization, functions, and personnel. The Senate amendment did not contain a similar provision. The House recedes.

The conferees note that Section 1112 of the National Defense Authorization Act for Fiscal Year 1997 included a provision, added at conference, that is similar to Section 501 of the House bill but that covers personnel and organizational information of the National Imagery and Mapping Agency (NIMA) as well as of NRO and DIA. The conferees agree that it is legitimate to protect from disclosure personnel information relating to DIA, NRO, and NIMA because their employees may be counterintelligence targets. But the conferees have some reservations about providing a blanket exemption against disclosure of unclassified information about the organization and functions of these agencies. The conferees note that, when the NRO's information disclosure statute was enacted in 1992, Congress specifically declined to extend the provision to cover unclassified organizational information about the NRO.

The conferees understand that the Senate Armed Services Committee and the House National Security Committee may reconsider whether the blanket exemption for all organizational and functional information is appropriate. In the interim, the conferees urge DIA, NRO, and NIMA to use the exemption sparingly to protect only that information which is truly sensitive and not as a reason to deny all FOIA requests for information about their organization or functions.

Tier III Minus UAV

Section 502 of the House bill authorized an additional $22 million for the Tier III minus unmanned aerial vehicle. The Senate amendment did not contain a similar provision. The authorization level for this program has been included in the Classified Schedule of Authorizations, and accordingly the conferees agreed that the provision is not necessary.

Economic espionage

Title V of the Senate amendment contained provisions criminalizing theft of economic proprietary information undertaken on the behalf of, or with the intent benefit, a foreign government or its agent. The House bill did not contain similar provisions.

This legislation was initially introduced by Senator Arlen Specter and Senator Herb Kohl as S. 1557 (the Economic Espionage Act), along with additional legislation, S. 1556 (the Industrial Espionage Act), to provide a broader criminal statute for general industrial espionage. The provisions of S. 1557 were then adopted by the Senate Select Committee on Intelligence as part of S. 1718, the Intelligence Authorization Act for fiscal year 1997. Subsequent to the SSCI action on this provision, the Senate and House adopted legislation encompassing provisions similar to both the Economic Espionage Act and the Industrial Espionage Act. Thus, the conferees agreed to drop this provision from the Intelligence Authorization Act.

Budget disclosure

Section 718 of the Senate amendment contained a provision requiring the President, as part of his annual budget submission to Congress, to provide in unclassified form the total amount appropriated by Congress for all intelligence and intelligence-related activities during the current fiscal year and the total amount requested in the budget for the next fiscal year. The House bill contained no similar provision. The Senate agreed to recede to the House.

Office of Congressional Affairs of the DCI

Section 714 of the Senate amendment would have established an Office of Congressional Affairs of the DCI to coordinate the congressional affairs activities of the various elements of the Intelligence Community. The House bill contained no similar provision. The conferees have decided not to require the creation of this office in statute. The conferees agree, however, that there is occasionally a need for a coordinated Community response to Congressional inquiries and recommend that the DCI specifically designate the Director of the Office of Congressional Affairs within the CIA as the focal point for such inquiries from Congress. The conferees do not intend by this recommendation to preclude the individual offices of congressional affairs within the elements of the Intelligence Community from responding directly to requests from the congressional committees.

National Imagery and Mapping Agency

Section 801 of the Senate amendment would have added a new section to the National Security Act specifying the national museum and collection tasking authority for the new National Imagery and Mapping Agency. The House bill contained no similar provisions.

The conferees noted that Section 1112 of the National Defense Authorization Act for Fiscal Year 1997, which establishes and sets forth the missions for NIMA, contains similar provisions. These provisions were added to the Senate version of the Act by the Senate Intelligence Committee, which took the Senate bill on sequential provisions from the Senate Armed Services Committee in order to examine the provisions relating to NIMA. Accordingly, the conferees agreed to exclude Section 801 from the conference report.

From the Permanent Select Committee on Intelligence, for consideration of the House bill and the Senate amendment, and modifications committee to the conference:

LARRY COMBEST,
ROBERT K. DORNAN,
BILL YOUNG,
JAMES V. HANSEN,
JERRY LEWIS,
PORTER J. GOSS,
BUD SHUSTER,
BILL MCCOLLUM,
MICHAEL N. CASTLE,
NORMAN D. DICKS,
BILL RICHARDSON,
JULIAN C. DIXON,
ROBERT TORRICELLI,
RONALD D. COLEMAN,
DAVID SKAGGS,
NANCY PELOSI,

From the Committee on National Security, for consideration of defense tactical intelligence and related agencies:

BOB STUMP,
FLOYD SPENCE,

Managers on the Part of the House.

ARLEN SPECTER,
DICK LUGAR,
RICHARD SHELBY,
MIKE DEWINE,
JON KYL,
J.M. INHOFE,
KAY BAILEY HUTCHISON,
BILL COHEN,
HANK BROWN,
BOB KERREY,
JOHN GLENN,
RICHARD H. BRYAN,
BOB GRAHAM,
JOHN F. KERRY,
MAX BAUCUS,
J. BENNETT JOHNSTON,
CHARLES S. ROBB,

From the Committee on Armed Services:

STROM THURMOND,
SAM NUNN,

Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 3539, FEDERAL AVIATION AUTHORIZATION ACT OF 1996

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3539), to amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee? The Chair hears none and, without objection, appoints the following conferees:

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except section 501) and the Senate amendment (except section 1001), and modifications committed to conference: Messrs. SHUSTER, CLINGER, DUNCAN, OBERSTAR, and LIPINSKI.

From the Committee on Transportation and Infrastructure, for consideration of section 501 of the House bill and section 1001 of the Senate amendment, and modifications committed to conference: Messrs. SHUSTER, CLINGER, and OBERSTAR.

As additional conferees from the Committee on Rules, for consideration of section 675 of the Senate bill, and modifications committed to conference: Messrs. DREIER, LINDER, and BEILENSON.

As additional conferees from the Committee on Science, for consideration of sections 601–05 of the House bill, and section 103 of the Senate amendment, and modifications committed to conference: Mr. WALKER, Mrs. MORELLA, and Mr. BROWN of California.

As additional conferees from the Committee on Science, for consideration of section 501 of the Senate amendment and modifications committed to conference: Messrs. WALKER, SENSENBRENNER, and BROWN of California.

The SPEAKER pro tempore. The Chair will name members from the Committee on Ways and Means at a later date.

There was no objection.

CONFERENCE REPORT ON H.R. 3666, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1997

Mr. LEWIS of California. Mr. Speaker, pursuant to the order of the House of earlier today, I call up the conference report on the bill (H.R. 3666), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1997, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, September 20, 1996, at page 24117.)

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 3666 and that I may include tables, charts and other extraneous materials.

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

There was no objection.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the very beginning of this discussion on this very important bill, I want my colleagues to know just how strongly I feel about the need to change the tons of the debate that often takes place on this floor.

□ 1915

Often it is shrill. Often it is dominated by extremes. All too often it is partisan for the sake of being partisan.

It is my view that we should work hard to change that fact. Public policy is best developed in an atmosphere of bipartisanship. Working together, we do a much better job for the public and the people that we were elected to represent. Mr. Speaker, the bill that we are about to consider is a reflection of perhaps the best of that kind of effort to change our working environment.

With that, Mr. Speaker, my ranking member, the gentleman from Ohio [Mr. STOKES], and I are pleased to present the 1997 VA–HUD and Independent Agencies Conference Report. This report treats all accounts fairly within the allocation provided to the subcommittee. This is a bipartisan bill which I have every expectation will be signed by the President.

The fiscal year 1997 VA–HUD bill reaffirms our continued commitment to serving veterans, to protecting the environment, providing housing for the poorest of the poor and ensuring America's future leadership in space.

In spite of the difficult challenges in putting this conference report together, this final product represents a balance of tough choices and common interests. Most importantly, it keeps the appropriations process on track for meeting the vital objective clearly stated by the Congress and the administration of balancing the budget by the year 2002.

A majority of programs have been funded at either the President's request or the enacted levels for fiscal year 1996. We have succeeded in holding the line on spending by reducing the rate of growth in several spending programs. This bill is a demonstration that deficit reduction can be achieved while keeping an ever watchful eye on every taxpayer dollar the Government spends. In fact, this legislation is $3.2 billion below the President's request.

When this conference report becomes law, the Subcommittee on VA, HUD and Independent Agencies will have cut nearly $20 billion in discretionary spending over the last 2 years. At the same time we have dramatically reduced the rate of growth of Government. Our work clearly demonstrates that Congress can move toward a balanced budget while at the same time delivering funding for people programs that have performed well.

This bill has drawn a good deal of attention due to the fact that three health care riders were added to the bill in the Senate. While this is, in my judgment, not the proper vehicle to reform our health care and insurance delivery systems, the House voted overwhelmingly to instruct the conferees to retain the Senate provisions. House and Senate leadership agreed that these legislative riders should be included in the final version of the VA conference report and thereby we have responded.

These provisions relate to mental health parity, to 48-hour hospital stays for mothers and newborns, and veterans benefits to children suffering from spina bifida as a result of their parents military service. Because these issues are really outside the jurisdiction of the committee and certainly beyond the expertise of either the committee or our staff, the mental health parity provision is not effective until January 1, 1998. The spina bifida provision is not effective until October 1, 1997.

This bill will allow our authorizing committees time to more clearly evaluate these proposals before they became effective. Furthermore, the mental parity provisions contain small business exemptions as well as the Gramm amendment from the Senate side which voids the measure if group insurance policies increase by over more than 1 percent.

Let me take just a minute to list some of the bill's funding highlights. Within the Department of Veterans Affairs, we have provided a total agency budget of $39.158 billion. We have increased the medical care account by $5 million over the President's request to a total of $17 billion plus, 449 million over the 1996 level.

We have increased the medical and prosthetic research account by $5 million over the President's request to a total of $262 million. We have funded a replacement hospital at Travis Air Force base at $32.1 million. Within the Corporation for National Communities and Community Service, or what is known as AmeriCorps, we have frozen the spending level at the FY 1996 level of $400,500,000.

This appropriation is obviously a must to get our bill signed by the President. Although I carried an amendment last year to zero out this agency, our leadership has acknowledged that it must be funded to avoid a Presidential veto.

Within the Department of Housing and Urban Development, we provided a

total agency budget of $19,450,000,000. Our bill increases housing for the elderly, section 202 funding, by some $50 million over the President's request to a total of $645 million. The bill increases housing for people with disabilities by $20 million over the President's request to a total of $194 million. It fully funds community development block grants at $4.6 billion.

We have increased HOPWA funding by $25 million. Within the Environmental Protection Agency, we have provided a total agency budget of $6.712 billion. This represents an increase of $70 million over last year. The bill contains no environmental riders; that is, no riders, period.

We have funded the Superfund program at the budget request of $1.394 billion. Clean water grants are fully funded at $625 million. The Safe Drinking Water State Resolving Fund, SRF, is fully funded at $1.275 billion.

Within the National Aeronautics and Space Agency, we have provided a total agency budget of $13.704 billion. We have fully funded the International Space Station at a long agreed upon figure of $2.1 billion. The Human Space Flight Account has been funded at $5.362 billion. The Science Aeronautics and Technology Account has been funded at $5.763 billion. We have also provided the National Science Foundation with a total agency budget of $3.270 billion.

The Federal Emergency Management Agency has been funded at $1,788,000,000. The Disaster Relief Account has been funded at $1.320 billion.

In closing, Mr. Speaker, let me first speak one more time to the atmosphere in which we developed this bill. I want to personally and publicly thank my ranking member and my very good friend, the gentleman from Ohio, Mr. LOU STOKES, for the working atmosphere and spirit that we have shared together, both the environment in which we have worked but also beyond the partnership itself. Our personal friendship is a very, very big part of the joy that I share with my family and staff in working with this committee and in this body. LOUIS STOKES, to say the least, is a legislator, in my judgment, to behold.

While working very closely together in the entire Committee on Appropriations, I believe the work of this subcommittee is a reflection of what we ought to be about in the entire committee in every one of our conference reports, and hopefully one day that will be the environment in which the entire House operates.

I would also like to take a moment and commend our very capable staff. Del Davis, who has worked very closely with Mr. STOKES, was greatly assisted earlier in the year by Leslie Atkinson, who has decided to leave us at least for now, but who contributed a great deal to our efforts, along with our very, very professional staff headed by Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Doug Disrud, Alex Heslop, Dave LesStrang and Jeff Shockey, for their hard work and long hours in putting together this diverse and very complex package. Working together, this has been indeed a bipartisan team spirit at the staff level as well.

Finally, I would like to bid farewell to two of our colleagues who will be leaving the House after this Congress and, therefore, will be leaving also the Subcommittee on VA, HUD and Independent Agencies. The gentlewoman from Nevada, Mrs. BARBARA VUCANOVICH, is a personal friend and dear colleague, a great member of our subcommittee. We will miss here greatly. The gentleman from Texas, Mr. JIM CHAPMAN, who will not be coming back, has been a great member of our committee and has made a great contribution to this effort.

I wish to thank them both for their extreme efforts to work closely with our subcommittee and participate in its many hours of markup. They have been a great addition to our work, and we will miss them in the years ahead.

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

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

Mr. Speaker, I rise in support of this conference agreement. At the beginning I want to commend my friend, the gentleman from California, Mr. JERRY LEWIS, the chairman of the subcommittee, for his leadership on this measure. In marked contrast with the confrontational manner in which this bill was considered for fiscal year 1996, this year's experience has more closely reflected the mutual respect and the comity that has been the hallmark of this subcommittee's operations.

I am pleased and I am gratified that we have been able to set aside the divisive riders and the policies that caused so much trouble last year and have worked together to produce a bill that deserves the support of this body. It has indeed been a real pleasure to work, as Mr. LEWIS has already said, together in a bipartisan manner to produce a bill that both of us are extremely proud to present to this body.

I also, Mr. Speaker, want to take a moment and express my personal appreciation and that of the appreciation of the staff on this side for the excellent working relationship and cooperation we have had from the staff that works for Mr. LEWIS. Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Jeff Shockey, Dave LesStrang, Alex Heslop, and Doug Disrud, all of them have been cooperative, worked closely with me and with my staff in order to produce this bill and we are very appreciative of it.

I also want to take a moment and express my appreciation to Del Davis, a very able and capable staffer on this side, whose work has been very important to me in producing this bill; also Leslie Atkinson, who was mentioned by the chairman, who although she is no longer with our staff, a great deal of work went into this bill while she was still here on our staff and we are appreciative of her work.

Mr. Speaker, although we have not seen a formal statement of administration policy on this conference agreement, it is my understanding that the administration has no serious objections to the bill and expects to sign it. I might also add that it is important that we act quickly to send this bill to the President. The bill contains $100 million in supplemental 1996 funding for compensation and pension payments for veterans. If this bill is not cleared for the President very soon, the checks distributed later this week will not contain the full amount to which veterans are entitled.

□ 1930

We cannot allow that to happen.

The chairman has done an extremely able job describing the major features of this conference agreement. I will just highlight some of the aspects of the bill that I feel are extremely important and make this legislation worthy of the Members' support.

First of all, the conference agreement includes the three health provisions added by the Senate that were the subject of my motion to instruct the conferees that was adopted by a vote of 392 to 17. Some technical changes were made, and the dates of implementation were extended, to allow the authorization committees to review the situation next year. They will be able to make changes or advance the effective dates. However, if they do nothing, the provisions will then take effect without further action by the Congress.

The result will be that offspring with spina bifida of Vietnam veterans exposed to Agent Orange will be eligible for treatment and benefits. The result will be that newborns and their mothers will be allowed to stay in hospitals for 48 hours after delivery. The result will be that mental health will be treated in the same manner as physical health in health insurance plans.

The bill also includes provisions targeted to help some of the most needy among us. I am referring to the $2.9 billion for public housing operating subsidies, $2.5 billion for public housing modernization, the $550 million for severely distressed public housing, HOPE VII, the $290 million for drug elimination grants, the $645 million for section 202 elderly housing, the $194 million for section 811 disabled housing, the $823 million for homeless assistance grants, and the $171 million for the housing opportunities for persons with AIDS program, among others.

In conjunction with the HOPWA Program, the conference agreement provides that, to the extent available, the department may use an additional $25 million in recaptured section 8 funds for HOPWA.

The bill extends for public housing authorities the provisions enacted in the 1996 act which allows them the flexibility to manage with reduced resources. In addition, provisions have been included in the preservation program and the section 8 contract renewal demonstration program intended to provide assistance to those residents who may be displaced due to funding constraints and program restructuring.

The conferees have agreed to the Senate's funding level for the Corporation for National and Community Service. That means that AmeriCorps will receive $400.5 million in 1997, the same amount as provided in 1996. Without funding for this program of the highest priority with the President, it is doubtful the bill would be signed into law.

For the Environmental Protection Agency, the conferees recommended more than $6.7 billion, which represents an increase of $144 million above the House passed amount and $184 million above 1996. There are no anti-environmental riders in this legislation.

Other features of the agreement are detailed in the report and the accompanying statement of the managers.

Also, I would be pleased to respond to any questions that Members may have about the conference agreement.

Overall, given the constraints within which the conferees had to operate, a solid and supportable product has been crafted.

As the gentleman from California [Mr. LEWIS] said, we worked in a bipartisan spirit and we have a bill that we are extremely proud of.

Let me also, in reserving the balance of my time, take just a moment to join with the gentleman from California, Mr. LEWIS, in extending our appreciation for the opportunity to work with the gentlewoman from Nevada, Mrs. BARBARA VUCANOVICH, and also the gentleman from Texas, Mr. JIM CHAPMAN. Both have been extremely valuable members of this subcommittee. It has been a pleasure and honor to work with them, and we certainly wish both of them the best when they leave the House.

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

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are some technical items that I need to get out of the way before we proceed with other witnesses so I will do this at this point in time.

Mr. Speaker, for the benefit of all Members and those that may read and rely upon our Joint Explanatory Statement of the Managers, we have found a few small errors in that statement which should be noted as part of the legislative history of this legislation.

In amendment number 9 under Construction, Major Projects, within title I of the Veterans Affairs, the statement of the managers noted the reductions of $15,100,000 for renovation activities at Perry Point Maryland Virginia Medical Center, and $15,500,000 for renovation activities at Mountain Home Tennessee VA Medical Center. These 2 items were printing errors and should be additions to the budget request, not reductions.

In amendment No. 57 under science and technology within title III, Environmental Protection Agency, the amount over the budget request for the Mickey Leland National Urban Air Toxic Research Center was incorrectly listed at $2,150,000. The correct amount is $1,150,000.

Finally in amendment No. 70 under State and tribal assistance grants within title III of the Environmental Protection Agency, $1,150,000 was provided for wastewater improvement needs in 3 Pennsylvania counties. One of three counties, Huntingdon, was spelled incorrectly in the statement of managers.

I would also note with respect to this specific matter that it was the intent of the conferees that $400,000 in the wastewater needs of Metal Township Municipality Authority in Franklin County, $400,000 is for wastewater needs of Mount Union in Huntingdon County, $186,000 for wastewater needs of Huston Township, Clearfield County, and $164,000 is for wastewater needs of Osceola Mills, also Clearfield County.

With those corrections, Mr. Speaker, I would add further I have been asked to make a brief clarifying statement with regard to the newborns language contained in title 5 of the conference report. This clarification came at the request of the Office of Management and Budget, and it is my understanding it has been cleared by all sides of this question. The House conferees intend that the Newborns and Mothers Health Protection Act of 1996, title 6 of the bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and independent agencies for fiscal year 1997 include the minimum 48 hour and 96 hour stay protections for mothers who are eligible beneficiaries under Medicaid in connection with Medicaid prepaid contracts.

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

Mr. STOKES. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from New York [Mrs. LOWEY], a very able and valuable member of the full Committee on Appropriations.

Mrs. LOWEY. Mr. Speaker, before I enter into a colloquy with the distinguished gentleman from California [Mr. LEWIS], I, too, as a member of the committee, want to thank the chairman, Mr. LEWIS, and the distinguished ranking minority leader for their outstanding work on this bill, and I am very pleased to support it.

Recently this Congress passed, and President Clinton signed into law, legislation which I championed in the House designed to address the potential threat to human health posed by chemicals and pesticides that mimic human hormones. There is considerable concern in the scientific community that chemicals that mimic human hormones may be disrupting the human endocrine system and in this way may be linked to breast cancer in a wide range of reproductive problems. Therefore under the Food Quality Protection Act of 1996 and the Safe Drinking Water Act amendments of 1996, Congress has ordered EPA to develop a screening program to determine if certain pesticides and chemicals have an effect on humans similar to an effect produced by estrogen or other endocrine disrupter effects.

Under this legislation EPA has 2 years to develop the testing protocol and 3 years to begin testing. In selecting the testing protocol, EPA is required to develop a validated approach and to secure the outside review of the test program from one of two science advisory boards. The entire provision is intended to screen substances for potential further review, an action pursuant to EPA's existing programs.

Much to the disappointment of many Members, nothing in the provision gives EPA any new regulatory authority. As a modestly sound first step, the estrongenic substances testing provisions were widely supported by Members from both sides of the aisle and were heralded by leaders of both parties as a responsible response to a serious women's health and environmental issue.

Because of the strong bipartisan support for the estrogenic substance screening program, I was quite shocked to see in the joint explanatory statement the conferees' language which could be construed to put roadblocks in the way of EPA developing the necessary testing protocols. Specifically, the statement calls for EPA to enter into an agreement with the National Academy of Sciences to conduct a massive study on the entire issue of endocrine disrupters, looking at human health effects, comparative risk issues and a myriad of other issues.

While all of these issues may be relevant to EPA finalizing regulatory action on endocrine disrupters, they are not relevant to the more modest goal of developing a screening test for pesticides and chemicals. Yet the conferees' statement seems to state that EPA cannot develop and implement screening tests unless and until the study is completed.

So I would like to ask the gentleman from California [Mr. LEWIS] a question regarding this language in the conference report. Is it fair to say that, while conferees did intend for EPA to ensure that a comprehensive study of the endocrine disruption issue is completed by the NAS, it did not intend to freeze the EPA's ability to develop and implement a screening test as mandated by the Food Quality Protection Act and the Safe Drinking Water Act?

Mr. LEWIS of California. Mr. Speaker, will the gentlewoman yield?

Ms. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Responding to my colleague, and I very much appreciate the gentlewoman yielding, we intended with this language that EPA develop a sound scientific basis for all actions that it takes in this area. However, nothing in the managers' statement can or should be construed as changing EPA's obligation to develop a screening test program in a timely manner.

Mrs. LOWEY. Mr. Speaker, reclaiming my time, I thank the gentleman for his views and trust that the EPA will implement the statements in the conference report in a manner consistent with the views we have expressed tonight.

Mr. LEWIS of California. Let me say to the gentlewoman I very much appreciate her raising the question. It is an important question, and we are happy to work with the gentlewoman from New York.

Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN], a member of the subcommittee.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of the conference agreement.

Mr. Speaker, let me first thank the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] and the staff for their leadership and guidance.

Specifically, the bill provides funding for two very important programs that I am very pleased to support and that I have actively worked on throughout the year: the Superfund program and the program for housing for people with disabilities.

This conference report dedicates $1.3 billion to the Superfund program. All of us know how important this program is, and for the second time in the 104th Congress this committee has earmarked over $900 million, the most money ever for remediation activities. This money will go a long way toward cleaning up many serious toxic waste problems.

Coming from a State, New Jersey, that has the most Superfund sites of any State in the Nation, I am very pleased that Congress has attempted to put money towards cleanup and less money toward litigation. I am hopeful next year, Mr. Speaker, we can put our differences aside and reauthorize the Superfund program.

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Finally, I would like to comment on the increases for both the disabled and senior housing programs. Realizing the importance of both of these programs, this agreement increases the funding above the President's request by $20 million for the disabled housing and $50 million for senior housing.

In addition to these increases, the conference report recognizes the importance of providing housing for people with disabilities. The committee has, for the first time, earmarked $50 million for tenant-based rental assistance, to ensure that there is decent, safe, and affordable housing in the community for low-income people with disabilities.

I specifically thank the gentleman from Ohio [Mr. LEWIS] for his leadership and help on these earmarks.

Access to housing, Mr. Speaker, in the community, is a cornerstone to independence, integration, and productivity for people with disabilities, the three hallmarks of the philosophy of the disability community. This bill strongly supports these principles, and I believe these extra dollars will empower the community in their goals of living with dignity and independence.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. EVANS], a member of the Committee on Veterans' Affairs.

Mr. EVANS. Mr. Speaker, I appreciate the gentleman yielding time to me.

Mr. Speaker, there are a lot of good things in this bill. One of the most important things is the fact that we compensate and provide health care benefits for children of Agent Orange-exposed Vietnam veterans.

I believe that these children are as much veterans of the war as any other person that served or who was wounded during time of war. Through no choice of their own, they lost their health in service to our country. Because of this, they face a lifetime of extensive medical care. The provision in this conference bill fulfills the duty we owe to them and any other citizen that has sacrificed their health in defense of our Nation. We urge our colleagues to support the conference report.

Mr. Speaker, the VA–HUD bill is one of the most important bills we consider in ensuring our Nation's commitment to our veterans. This year, it takes on even greater significance, since for the first time it provides compensation and health care to the children of agent orange-exposed Vietnam veterans who suffer from spina bifida.

Earlier this year, the National Academy of Science's Institute of Medicine found that there is limited/suggestive evidence of an association between agent orange exposure to vets and the occurrence of Spina Bifida in their children. The report confirmed what Vietnam vets knew all along—that agent orange has and will continue to exact a high price on themselves and their families.

I believe these children deserve the same treatment as if they had been wounded or served during time of war. Through no choice of their own, they lost their health in the service of our Nation. Because of this, they face a lifetime of extensive medical care. The provision in the conference report fulfills a duty we have to them and any other citizen who has sacrificed in the defense of our nation.

There are many to thank for their hard work on this matter: Senator DASCHLE for his leadership on this and so many other issues concerning the tragedy of agent orange; The administration, especially VA Secretary Jesse Brown for proposing and closely coordinating the legislation; the Vietnam Veterans of America, the American Legion and the Veterans of Foreign War for their strong advocacy; and the disabilities community, such as the Spina Bifida Association of America, the National Association of Veteran Family Service Organizations and the American Association of University Affiliated Programs for Persons with Developmental Disabilities for their grassroots efforts. In particular, I would like to thank the ranking minority member, Mr. STOKES for his hard work and diligence. Without his perseverance, we may have never achieved success.

I urge my colleagues to support the conference report.

Mr. LEWIS of California. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. RIGGS] for purposes of a colloquy.

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

Mr. Speaker, first I want to thank the chairman of the subcommittee and the ranking member, the gentleman from Ohio [Mr. STOKES] for their hard work in the conference report, and the wonderful things they have done in the context of this conference report for northern California veterans; specifically, the 440,000 veterans from all branches of the service who live in northern California, and who have been relying on the bipartisan promises made by the last two presidential administrations, the Bush administration and now the Clinton administration, that we will build a Veterans' Administration Medical Center at Travis Air Force Base in Fairfield, in Solano County, in my congressional district, to replace the one, that is the operative word, replace the one, closed in Martinez, CA, in the aftermath of the 1989 earthquake.

So it is my understanding, Mr. Speaker, that the gentleman has been able to, in the context of this conference report, preserve the funding that was included in the House version of this appropriations bill, and I believe that is $32.1 million. That is in addition to the $25 million approved in last year's bill, which is at least preliminarily earmarked for an outpatient clinic.

It is my understanding, I would say to the chairman of the subcommittee, that this $57.1 million could in fact go towards the construction of the replacement of the hospital at Travis Air Force Base. I ask the gentleman to confirm my understanding, and also the accompanying report language included in the report.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. RIGGS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, let me first congratulate the gentleman from California [Mr. RIGGS]. I cannot think of a Member of the House who has been more diligent than he regarding this very important matter to his district for replacement of that VA hospital that was destroyed by an earthquake many years ago.

The gentleman is correct, we did appropriate $25 million in last year's bill that at least initially was designed for a clinic approach. This bill does provide $32.1 million in replacement monies for the hospital that was destroyed.

Indeed, we have asked that the appropriate committees review all of that to help us figure out how we best deliver services to people of the gentleman's vast region. The hospital replacement is the highest priority. Presuming it is logical, those funds could be merged, and certainly construction can go forward as soon as they respond.

Mr. RIGGS. Mr. Speaker, I would like to clarify that the report language directs the VA to make a report to Congress prior to the release of any construction funds, either from the 1996 or this next fiscal year, the 1997 bill, and that, as the gentleman just put it, the VA is directed to study the various service delivery options in the northern California catchment area.

But it is my understanding that the VA has long been on record as strongly supporting a replacement hospital as the most efficient and effective method of providing long-term acute care to northern California veterans.

So it is my expectation, Mr. Speaker, I would say to the gentleman, the VA would report to Congress in a timely manner to facilitate quick release of funds for replacement of hospital construction. The veterans of northern California, and I include myself in this group, because I am a proud military veteran, have waited 6 years for this day.

I believe, Mr. Speaker, it would be an affront to the men and women who have served their country beautifully to further delay the replacement of the hospital.

Mr. LEWIS of California. Let me say that the Veterans' Administration has given high priority to the replacement of the hospital, largely at the gentleman's urging. There is little question they will respond expeditiously and will go forward on it.

Mr. STOKES. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I would like to congratulate the gentleman from California [Mr. LEWIS], Republican chairman, and the ranking member, the gentleman from Ohio [Mr. STOKES], because they have participated in a very historic piece of legislation; historic because this is the first time, to my knowledge, in the Congress of the United States that there has been recognition of equality for mental illness as well as various physical illnesses; because, by the passage of this legislation, there will be protection for the first time, providing equality for lifetime and annual limits on health insurance policies.

That means if there is a lifetime cap of $1 million for various diseases, physical problems, they would be called, there cannot be a lower cap for mental-related disorders.

Twenty percent of Americans are affected sometime every year by mental disorders or addictive disorders. Only 20 percent of the 20 percent receive treatment. This is going to begin to open the doors for large numbers of people, including, hopefully, even more than the 42,000 West Virginians presently receiving some sort of mental disorder-related treatment.

Mr. Speaker, it is good also because this shows what Republicans and Democrats can do when they work together in health care.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from Texas [Mr. LAUGHLIN] for purposes of a colloquy.

Mr. LAUGHLIN. Mr. Speaker, I thank the distinguished chairman, my good friend, the gentleman from California, Mr. LEWIS, for entering into this colloquy.

Mr. Speaker, I would say to the gentleman, I wrote him on June 6 to urge him to include funding in the VA, HUD, and Independent Agencies appropriation bill for the Institute of Environmental and Industrial Sciences in San Marcos, Texas. This impressive institute is at the forefront of some of the most sophisticated basic and applied research that will help the petrochemical and other heavy industries comply with our complex environmental laws, regulations, and standards.

The Senate Appropriations Committee included language in its committee report which recognized this important institute and urged the EPA to consider funding the petrochemical industry environmental technology project that would be initiated by the institute in fiscal year 1997.

The conference agreement did not add any additional language regarding the institute, but it did include language supporting the project and other projects that were in one or the other committee reports. I would ask the chairman of the subcommittee, is that correct?

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, the gentleman is correct. We worked very closely with the gentleman and the Senate in developing the language.

The language at the beginning of the statement of the managers makes it very clear that any program or language or allocation contained in one or the other report and which is not overturned in the conference is deemed to be approved by the conference committee. The conference committee supports the gentleman's project. The conferees also fully expect the Environmental Protection Agency to comply with the language and give it high priority for funding.

Mr. LAUGHLIN. Mr. Speaker, I thank my friend, the gentleman from California, for that assurance. Can he give me his personal commitment to work with me to stay in close contact with the EPA, to make sure that the agency makes every possible effort to identify the funding required to support the institute's efforts in fiscal year 1997? I am informed that due to budget constraints, the fiscal year 1997 requirement for the institute has been cut to $2,300,000.

Mr. LEWIS of California. Mr. Speaker, I can assure the gentleman from Texas that I will work with him to encourage the agency's cooperation in finding the resources to fund the important initiative next year.

Mr. LAUGHLIN. Mr. Speaker, I thank the distinguished chairman for his assurances, for his support, and for his friendship for many years.

Mr. LEWIS of California. Mr. Speaker, I am happy to work with my friend, the gentleman from Texas.

Mr. STOKES. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I have the highest respect for the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] managing this bill, but I have concerns about the process that has taken place over the course of this bill leaving this Chamber and going to the other, and coming back with $690 million that we did not approve, including $15 million that this House voted overwhelmingly, by 60 votes, to save for the taxpayer on studying monkeys, Russian monkeys in space.

We just had Shannon Lucid come back down from space after 180 days. Now we want to spend $15 million studying the effects of gravitation on monkeys. Mr. Speaker, I have a big

problem with that. I am sorry that got stuck back into this bill.

I am also worried about shuttle safety, Mr. Speaker. When we recovered one of the rockets that helped the shuttle get up on this last venture, we found a wrench in the rocket booster. I hope that we will continue to work in a bipartisan way to ensure that we have shuttle safety in the future and not have all this money go toward the Space Station with mixed-up priorities.

With that, Mr. Speaker, again, I commend the bipartisanship the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] tried to put together in this bill.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

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

Mr. Speaker, I rise in strong support of this conference report. Approximately 5,000 veterans per month enter the State of Florida. The veterans population continues to increase in a number of States like mine, and many of these States have seasonal increases in the number of veterans seeking care. This causes long waiting periods and puts a strain on the facility and also on the personnel.

Why should residents that live in these regions be subject to such delays before receiving treatment? As I understand it, the addition of the McCain amendment will ensure that all veterans will have similar access to health care, regardless of the region of the United States in which such veterans reside.

This amendment, like my bill, H.R. 549, requires the Secretary of the Department of Veterans' Affairs to develop a plan for allocation of health resources so these overburdened facilities are no longer being asked to provide more veterans with health care without providing the necessary funding. This goes along the lines of the bill that I have proposed, the Veterans Bill of Rights, which I have proposed since the 101st Congress.

As a veteran myself, I am glad we have finally put the McCain amendment into this conference report, and I particularly think it will benefit my home State, which has not been funded in terms of benefits for its exploding veterans population over the years. Veterans and their families have paid a price. Now it is our duty to keep faith with these heroes. So I commend both the minority chairman and the majority chairman and subcommittee chairman for putting this in place in this bill.

Mr. STOKES. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ], the ranking member of the Committee on Banking and Financial Services.

Mr. GONZALEZ. Mr. Speaker, I rise in support of the conference report.

Mr. STOKES. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Maryland, [Mr. HOYER], a member of the Committee on Appropriations.

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

Mr. Speaker, I rise in support of this legislation, and I am very, very pleased that the Goddard Space Flight Center Mission to Planet Earth has essentially been made whole. I know that resulted from the work of all the members of the subcommittee, and I appreciate that effort. I know that my colleague in the Senate, Senator MIKULSKI, has been a strong ally of ours.

I happen to represent Goddard Space Flight Center and the Mission to Planet Earth effort that they carry on there. It is a critically important scientific endeavor for this Nation and, indeed, for this globe.

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It will end up saving this country great sums of money, give much better information as to whether and the development of storm centers, give people much better warning and will give agriculture and business much better warning.

Mr. Speaker, I rise in strong support of this legislation and appreciation to both the gentleman from Ohio and the gentleman from California for their support of this particular piece of this important bill.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON], a member of the committee.

Mr. HOBSON. Mr. Speaker, I congratulate the chairman and ranking member, and I urge support of the bill.

Mr. Speaker, I rise today in strong support of the conference report on the 1997 appropriations bill for the VA, HUD, and independent agencies. I would first like to commend my chairman, JERRY LEWIS, and his excellent staff for their hard and tireless work on this legislation. I believe that we have produced an excellent bill which will provide for our veterans, help to meet our Nation's housing needs, protect the environment, and maintain our investment in space and science.

Specifically, the conference report appropriates $84.8 billion in new budget authority which is an increase of $2.4 billion over 1996 levels. More than half of the total spending under the bill supports military veterans by providing health, housing, education, and compensatory benefits. We increased funding for the Department of Housing and Urban Development by $323 million and for the Environmental Protection Agency by $184 million over 1996 levels.

Also, I am pleased that of $1.3 billion appropriated for the Federal Emergency Management Agency, funds will be available to provide disaster relief for those areas hardest hit by Hurricane Fran. The conference report also provides $13.7 billion for NASA and $3.3 billion for the National Science Foundation.

The conference report also includes priorities which are important for citizens of the State of Ohio. For example, in Chillicothe, OH, the VA Medical Center has been trying to expand their ambulatory care facility for several years. In fact, the Veterans Integrated Service Network ranked the Chillicothe project as the highest priority in the network last year and the design work on the project was recently completed. However, because of a shortage of funds within the network, no dollars were available for Chillicothe last year. I am pleased that this conference report recommends $2.9 million in minor construction funding for Chillicothe's ambulatory care facility.

The conference report also provides $206 million for FEMA's emergency management and planning assistance, which will fund priority emergency management programs in the States. In my home State, officials from the Ohio Emergency Management Agency have told me how important this funding is to supporting local response and recovery programs, preparedness training and exercises, and mitigation programs. I am glad this conference report supports these critical programs for the states.

I am also pleased that the conference report directs FEMA to look into a new emergency response system developed in my congressional district by MTL in Beavercreek, OH. There is a critical need to replace and upgrade emergency response vehicles and equipment, and the conference report specifically requires FEMA to come up with a priority list for upgrading its emergency equipment by the end of the year, including the MIDAS system built in my district.

To help address the shortage of affordable housing for persons with disabilities in Ohio and across the country, the conference report includes a $50 million set aside for section 8 tenant-based assistance for persons with disabilities. This appropriation is in line with the authorization provided in the Housing Opportunity Program Extension Act of 1995 and will provide much needed relief to persons with disabilities.

Additionally, the conference report includes language encouraging more cooperative efforts between NASA and other Federal agencies such as the Department of Defense. I believe such cooperative programs will result in budget savings and the elimination of duplicative programs. For example, in Ohio, NASA Lewis and Wright-Patterson Air Force base have entered into several cooperative aeronautics research agreements which allow knowledge and expertise to be shared between the two organizations.

Finally, I want to raise an issue that was not included in the conference report but is of importance of Ohio and hopefully will receive further consideration next year. The Wallace-Kettering Neuroscience Institute at Kettering Medical Center is a high technology neuroscience center which offers innovative programs dealing with brain diseases and injuries. The institute would like to expand its facilities to better serve patients in Ohio and the region. I look forward to discussing Kettering's neuroscience expansion with my colleagues.

In closing, I would like to again commend Chairman LEWIS, his staff, my colleagues on the subcommittee and our Senate counterparts. We have produced a good bill and have

received every indication that it will be signed by the President.

Mr. LEWIS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, let me rise to heap praise on both JERRY LEWIS and LOU STOKES for the great job they, their committee and their staffs do on this vital piece of legislation and to submit for the RECORD a letter from Jess Brown asking us, as Secretary of the Veterans Affairs, to process this legislation and get it to the President so that they can implement much of the legislation by October 1.

Let me also thank you for $13 million for a new veterans cemetery in my home State of New York, in Saratoga. But most of all let me thank you for the Solomon-Bradley language included in the VA appropriation bill which requires insurers to permit a minimum hospital stay of 48 hours. Shorter stays will be permitted as long as the health provider in consultation with the mother decide that it is best. I am pleased to say it leaves these important decisions in the hands of the doctors.

Ladies and gentlemen, I just have to point out a serious problem when this legislation was adopted. It was really driven home to me when I heard from a gentleman from northern New York in my district. His 19-year-old daughter is a victim of the terrible practice of drive-through deliveries. She delivered a baby on April 6 and was released from the hospital less than 24 hours later. Several days later her right lung exploded and she had 3 strokes. Tragically she is still in the hospital and will never again have a normal life, but more tragic than that, she will never be able to take care of that new, young, infant child of hers. I am just so happy that JERRY LEWIS, LOU STOKES, and the rest saw fit to keep this language in the bill. It is vital, it is so important, and I thank you from the bottom of my heart.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of the VA-HUD appropriations bill for 1997. This bill provides increased funding to clean up the environment and insures health care coverage for mental health and for 48-hour hospital stays after a woman has given birth.

This is critical legislation. This speaks to the needs of working families today. These are the issues that people are truly concerned about in their lives. I went to the local hospitals, I talked to the nurses and the women who give birth, and how if they are there only 24 hours you cannot detect jaundice, you cannot detect other illnesses that they might come down with, or that a baby can. This means so much to women's health.

I want to commend Chairman LEWIS and the gentleman from Ohio, Mr. STOKES, the ranking member, for this opportunity.

I also am particularly gratified by the spirit of the legislation that I introduced in a prior Congress on mental health parity that has been incorporated into this bill, ending the practice of discrimination against those who suffer from mental illness and their families. This legislation makes a difference in people's lives. That is why we are here to serve.

Mr. LEWIS of California. Mr. Speaker, I reserve the balance of my time.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. HINCHEY].

Mr. HINCHEY. Mr. Speaker, I rise in support of this conference agreement, but in doing so I just want to take a moment to draw the body's attention to a growing problem within the Veterans Administration. Funding for Veterans Administration health care programs is not keeping pace with the need. The VA is faced with some very difficult problems. As a result, they have been triaging veterans in New York and New England and across the northern part of the country to send what little funds they have for veterans health care to the South.

New York veterans hospitals are suffering as a result of this. Budget cuts are forcing reductions in personnel and reductions in the quality of health care. New York State has 1.5 million veterans, the fourth largest veteran population in the country. We are going to have to address this issue in the future, and I hope to be able to work with the committee in developing a budget next year which will adequately address the health care needs of our veterans, particularly those in New York, New England and elsewhere across the northern part of the country.

Mr. STOKES. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 3666, the fiscal year 1997 VA-HUD Appropriations Conference Report. This bill funds vital programs and activities of the Department of Veterans' Affairs [VA], the Department of Housing and Urban Development [HUD], and independent agencies such as the National Aeronautics and Space Administration [NASA], Environmental Protection Agency [EPA], National Science Foundation [NSF], and Federal Emergency Management Agency [FEMA].

I am especially pleased that the conference agreement provides the full $2.1 billion requested for continued development of the International Space Station. While I would have preferred that NASA's overall budget be funded at the requested level of $13.8 billion, the bill's appropriation of $13.7 billion for NASA nevertheless represents an increase of $100 million over the House passed version. The Space Shuttle program is fully funded at $2.3 billion, as are U.S. cooperative activities with Russia at $138 million. Additionally, the conferees restored more than $220 million that the House cut in the Mission to Planet Earth program to study our environment.

This bill demonstrates Congress' continued strong support for the Space Station. This year, there was only one vote on the Space Station, and continued funding was approved by the overwhelmingly margin of 287 to 127. This follows votes of 299 to 126 and 287 to 132 last year. Clearly, there continues to be very strong, bipartisan support for the Space Station even as we make the very difficult decisions needed to balance the federal budget.

While I support the conference report, I am extremely disappointed that the Conference Committee decided to exclude my amendment prohibiting the EPA from implementing its rule allowing the importation of polychlorinated biphenyls [PCB's] for incineration. On June 26, 1996, I successfully offered an amendment on the floor of the House prohibiting the EPA from allowing the importation of PCB's for incineration in the United States. PCB's are a dangerous class of chemicals that can cause serious health problems, including cancer, reproductive damage, and birth defects. Earlier this year, the EPA issued a ruling allowing the importation of PCB's, reversing a ban in place since 1980. I strongly opposed this ruling because I believe importing PCB's is unnecessary and threatens our health and safety.

Although the Conference Committee did not accept my amendment in its Report, I will continue to work with the EPA to expand the Community Right-to-Know law and the Toxic Release Inventory to cover the importation of PCB's for incineration. My constituents and citizens around the United State that live with PCB incinerators in their neighborhoods have a right to know what kind and what levels of toxic emissions are in their air and water. If these efforts are not successful, I will ask the House and Senate to revisit this issue in the next Congress.

Mr. STOKES. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. I thank the gentleman from Ohio [Mr. STOKES] very much for his hard work in working with the chairman of the committee.

Mr. Speaker, I rise to support and note some of the important aspects of this legislation and to note in particular the overall increase of 3 percent in funding beyond the appropriated fiscal year 1996. I particularly want to note

and say that I am pleased that the conference report funds the NASA space station. Although it appropriates $100 million less than requested for NASA overall, considering the current tumultuous budget and political climate, I consider this a victory for those who believe NASA, science and technology are important to our Nation and its future.

I would hope that we would move forward for additional research dollars and certainly continue support, particularly as we have noted the important work of Shannon Lucid, now returning to Earth with a world of history and information in her 6-month stay in space.

I am also gratified the conference report provides funding to AmeriCorps national service program at the current level. The conference report also provides significantly more funding for FEMA disaster relief, 18 percent more than the House bill; housing for persons with AIDS, 15 percent more than the House bill; and VA readjustment benefits, 12 percent more than the House bill.

We were also able to restore, or put in State safe drinking water revolving funds that were lost when Congress missed the August 1 deadline to enact the Safe Drinking Water Act and provide water improvement grants for United States/Mexico border wastewater projects.

I support the provisions of the conference report which would require that health insurance companies allow new mothers and their babies to spend a minimum stay of 48 hours in the hospital after delivery. This policy will insure that the mother and child receive the care that they need. I have supported this legislation over the past couple of months.

I also applaud the health provisions that require insurance companies to provide annual and lifetime limits on coverage for mental illness equal to those for physical illness.

If there is anything more that was raised by my constituents, it was the concern for balance.

May I also add that I support the provision for the spina bifida dollars that were provided for those children of parents who were exposed to Agent Orange.

Let me comment now in particular about the money spent for subsidized housing. This appropriations bill provides $1 billion for a new subsidized housing development account which provides for the elderly and also for those in disabled housing.

Let me also note that $550 million was installed for public housing. I also want to thank the gentleman from Ohio [Mr. STOKES] and the hard work of the committee that added that even though these moneys are for demolition, that we must also be concerned with the need for public housing for the homeless and those who need low-income housing, so that the HUD will be required to assess the homeless populations before these demolitions will be allowed and to be assured that we will provide housing for the homeless and housing for people who need it. I hope that we will support this legislation.

Mr. Speaker, I rise in support of H.R. 3666 the VA–HUD Appropriations Act of 1997's conference report. I would like to commend and thank the House and Senate conferees who worked hard to address the concerns expressed by me and other Members. The bill provides an overall increase of 3 percent in funding beyond the amount appropriated for fiscal year 1996.

Mr. Speaker, it would be an understatement for me to say that I am pleased that this conference report funds the National Aeronautics and Space Administration near the President's request. Although it appropriates $100 million less than requested for NASA overall, considering the current tumultuous budget and political environment, I consider this a victory for those who believe NASA, science and technology are important to our nation and its future.

This conference report provides funding to AmeriCorps national service program at the current level. The conference report also provides significantly more funding for FEMA disaster relief—18 percent more than the House bill—housing for persons with AIDS—15 percent more than the House bill—and VA readjustment benefits—12 percent more thank the House bill.

This measure also restores funding for State safe drinking water revolving funds that were lost when Congress missed the August 1st deadline to enact the Safe Drinking Water Act and provides water improvement grants for United States/Mexico border waste water projects.

I strongly support the provisions of the conference report which would require that health insurance companies allow new mothers and their babies to spend a minimum stay of 48 hours in the hospital after delivery. This policy will insure that mother and child receive the care that they may need.

I also applaud the health provisions that will require insurance companies to provide annual and lifetime limits on coverage for mental illnesses equal to those for physical illnesses. This conference also requires the VA to provide benefits to children with spina bifida whose parents were exposed to agent orange during the Vietnam War.

This conference report provides $19.5 billion in fiscal year 1997 for the Department of Housing and Urban Development [HUD] which is 2 percent less than the amount provided in the House bill.

The agreement provides a total of $196 million in FY 1997, which includes $25 million from certain recaptured Section 8 funds, for Housing Opportunities for Person with AIDS program. This is a 15 percent increase over fiscal year 1996 and the level requested by the President.

The conference report also provides $1 billion for a new Subsidized Housing Development acccount, which would provide $645 million for the Section 202 Elderly Housing program, and $194 million for the section 811 Disabled Housing program.

Like the House bill, the conference report appropriates $550 million for public housing authorities to demolish obsolete public housing projects and relocate tenants under the severely distressed public housing program which is 15 percent more than fiscal year 1996. However, it is important to realize that with the rush to demolition we must be cautious as to not eliminate sorely related housing for the poor.

Therefore, in connection with Public Housing, I am pleased that the conferees included report language that I proposed that encourages HUD and Public Housing Authorities to consider the shortages of affordable housing for low-income families, the size of the waiting list for pubic housing, as well as the size of the local homeless populations when assessing public housing demolition or dispossession applications.

It is my hope that this addition to the conference version of H.R. 3666 will help to balance to need for affordable housing for our nation's working poor with the reality of supply.

With the passage of this legislation this body should not consider its work done. We can still work to address areas of concern that improve the quality of life for all Americans.

I urge my colleagues to support this bill.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. GONZALEZ], the ranking member of the Committee on Banking and Financial Services.

Mr. GONZALEZ. Mr. Speaker, I rise in support for H.R. 3666, the conference report making appropriations for fiscal year 1997 for VA, HUD and independent agencies, although I continue to be deeply troubled by the severe budgetary limitations on domestic discretionary spending particularly for the most vulnerable and working families, funding for housing and community development programs in H.R. 3666 do not face any deeper cuts than they faced last year, nor does funding for the environment, veterans and NASA. And the extreme position of the House was overridden with respect to the AmeriCorps.

Thankfully, the circumstances surrounding consideration of this conference report today are vastly different from those last year. There are no noxious legislative riders. Instead, the conferees included authorizing provisions, both non-germane and germane, that I strongly support. The mental health parity provisions, the spina bifida provisions, and the 48 hour hospital stay for new mothers are important and humane health policy reforms.

The public housing and section 8 policy reform provisions are the very provisions that the authorizing committees are unable to bring to the House floor. We are hopelessly deadlocked on a very important public housing reform bill because the House majority refuses to compromise on many of its extreme

provisions. This appropriations conference report includes the provisions on which we all agree.

I also want to commend the conferees for coming to an agreement on the very complicated issue of section 8 portfolio restructuring. After consulting widely with the majority and the minority on the authorizing committees and with the housing industry, the conferees have included a demonstration program that balances all the disparate interests of the tenants, owners, communities, and the Federal Government. I am confident that this demonstration program for 1997 will serve as the basis for a permanent program which will preserve as much affordable housing as possible, reduce the costs to the Federal Government, reasonably protect the financial investments of the owners, and protect the tenants from unnecessary displacement.

That having been said there remain two glaring deficiencies in this conference report. For the second year in a row there is absolutely no new money for incremental section 8 housing assistance even in the face of continued evidence that greater numbers of very low income families and the working poor are finding it ever more difficult to find affordable housing. The report also fails to provide sufficient funding for the preservation program and makes it more difficult for projects, particularly in high cost areas, to qualify for federal assistance for preservation.

On balance, however, this conference report is about as good as we can get under our severe and unnecessary budget constraints and I urge my colleagues to support H.R. 3666.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. FAZIO], a member of the full committee.

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman from California [Mr. LEWIS], the chairman, and the gentleman from Ohio [Mr. STOKES], for the outstanding work they have done on this bill which I of course support.

I heard earlier a brief colloquy between my colleague Mr. RIGGS from California and Mr. LEWIS about the degree to which we were freeing up funds for the Travis Hospital in Fairfield, CA, the veterans facility. My reading of the report indicates to me that we have essentially moved 1 year and 3 months out into the future the decision date.

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Unless Congress is to take action in the interim, perhaps through a supplemental next year or through some other vehicle, maybe the authorizing committee would move, we in effect have put on hold the ultimate decision about going to construction, in hopes that some future resolution of this issue could be helpful to us in clarifying the intent of Congress and the administration.

I would like to ask my friend from California, is it his understanding that if no action is taken by any legislative body, by the Congress in general, that ultimately 1 year and 3 months from now the funding will be made available for this hospital, is that correct?

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, as I responded earlier to the gentleman from California [Mr. RIGGS] who has been so diligent in working on this matter, the VA holds this as a very high priority. I frankly expect to see them expedite the process. They will probably be asking to use all the money available, maybe as much as $50 million. We intend to be responsive.

Mr. FAZIO of California. Reclaiming my time, Mr. Speaker, if the VA says they are for this, the Congress would have to act to confirm that in some supplemental appropriations bill, would they not, in order to put the imprimatur if Congress on the decision?

Mr. LEWIS of California. The Veterans Administration has a lot of money in the pipeline regarding this whole process.

Mr. FAZIO of California. There is $57 million.

Mr. LEWIS of California. As the gentleman knows, we appropriated $25 million the previous Congress. There is authorization for that. They can do planning, use that for planning. I do not think they will be late at all. I would be very surprised if they would be delayed at all. On the other hand, I will be happy to work with the gentleman to make sure the VA is responsive.

Mr. FAZIO of California. My concern is not so much with the Department of Veterans Affairs as it is with the Congress. Do we have to take action within the next year and 3 months in order to bring about the immediate appropriation of that fund, and if we do not, at the end of that year and 3 months, would it automatically be spent out, in effect, if no action is taken by the Congress?

Mr. LEWIS of California. It is my judgment that they will be able to go forward with no action by the Congress within the next year, but I have every indication from the committee that they do intend to act. Frankly, I think we are on a fast track.

Mr. FAZIO of California. Does the gentleman mean the authorizing committees?

Mr. LEWIS of California. The authorizing committees. I have talked to the members in the House, and they seem to be enthusiastic about moving quickly and making the decisions.

Mr. FAZIO of California. The gentleman is hopeful they are positive and optimistic about moving forward on this, and not negative, is that his impression?

Mr. LEWIS of California. I would expect if they cannot move an authorization bill, they will probably let us do it somewhere else.

Mr. STOKES. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, I would like to first recognize the many excellent provisions of this legislation dealing with a whole range of subjects, from the needs of our veterans, to health care concerns for mothers who are hospitalized and wish to have an adequate period of time to care for their young and recover from the delivery, but I would also like to express my bitter disappointment that there are special pork barrel projects that have been added back into this bill in conference that we had struck from this bill on the House floor.

There is one in particular I would like to call to the attention of the Members of this body. We had deleted a $13 million earmark for the Museum of Natural History in New York, which was dubbed "Jurassic Pork." It now comes back with $8 million. The Senate had no such provision in its bill.

What has happened? We have made the decision on the House side, the Senate has not addressed the issue at all, and the appropriation reappears. This is persuasive evidence of the need for the line item veto.

Mr. STOKES. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will be very brief. I think this is the type of a bill that any Member of the House would be proud to associate his or her name with. It is the type of bill that, after working all year, the many hours spent on hearings, the hours spent in conference, we can come back to the House and be able to say to our colleagues that this is a good bill.

It is a good bill because it is a bipartisan bill. It is one that on both sides of the aisle we have worked together to try and produce a bill that all of us in the House can feel proud of and all of us can come to the floor and vote for.

Once again, I want to thank my good friend, the gentleman from California [Mr. LEWIS], for the pleasure of working with him to produce this excellent bill. I look forward to voting for it and I look forward to our continued, close working relationship together, to produce the kinds of legislation we produced today.

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

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I wish to compliment the members of the subcommittee for the work they have done.

Mr. Speaker, this Member rises, as vice chairman of the relevant authorizing subcommittee, the Subcommittee on Housing and Community Opportunity, to support the conference report and to express his thanks to the conferees who worked diligently in bringing this conference report before us today.

This Member is particularly pleased that the conferees approved the $3 million in funding for the Indian Housing Loan Guarantee Program at HUD. This very modest sum will guarantee the private financing of nearly $37 million in housing loans for Indian families. Mr. Speaker, there is a severe lack of decent, affordable housing in Indian country, due in large part to the lack of private financing in Indian country. This program provides a substantial means of bringing much needed private financing to Indian country. The very limited Federal funding for this new housing initiative is money well spent; therefore, this Member commends the conferees for including it in this measure.

Mr. Speaker, this Member is also pleased that the conferees allocate $645 million for section 202 elderly housing and $194 million for section 811 disabled housing in the newly established development of additional new subsidized housing account.

Additionally, Mr. Speaker, this Member would like to thank the conferees for including three reforms to the Federal Housing Administration's single family mortgage insurance program. These reforms will reduce regulatory red tape by allowing lenders who are authorized to underwrite loans under this program to also issue the mortgage insurance certificate, allow parents to lend money to their children for downpayment rather than being required to give the money as an outright gift, and reduce the up-front mortgage insurance premium.

Finally, this Member is eager to see the effectiveness of the demonstration program authorized in Hawaii and Alaska under the conference report which streamlines the downpayment calculation. Should this program prove effective, as this Member is confident it will, Congress should expand it to the rest of the Nation.

Mr. Speaker, this Member again thanks the conferees and urges his colleagues to vote aye on the conference report.

Mr. LEWIS of California. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in responding to my colleague's closing remarks, I would say one more time, it was a great pleasure to work throughout this year with the gentleman from Ohio [Mr. STOKES] as well as our colleagues on the subcommittee to produce this conference report, but especially our friendship makes it all the better. I look forward to working with the gentleman in the years ahead.

I am also happy to announce that earlier this evening this conference report was deemed passed upon receipt from the House by the other body, thus assuring a swift movement of the bill to the President. We are highly confident it will receive his signature within the next several days.

Mr. Speaker, as I have said, I am very proud of the work of this subcommittee, not only as reflected in the conference report before us, but throughout the 104th Congress. When we total up that effort, including the rescission bill of 1995, the appropriations product of last session and the bill before us tonight, this subcommittee has reduced spending a grand total of some $18 billion. That is almost $20 billion in reduced levels of spending that significantly impact the rate of growth of Government.

That, Mr. Speaker, gives us reason to be proud, for we have proven that the pathway to a balanced budget does not, I repeat, does not, mean the undermining of important people programs along the road.

As we have reduced spending wishlists some $20 billion, we have still very adequately funded programs for America's veterans; we have begun to make sense out of the Federal housing programs, while funding housing for aged and disabled above the President's request; we have supported efforts in space, giving priority to scientific research; and been very generous with the Environmental Protection Agency.

At the same time, we have made by far the largest commitment to a balanced budget by reducing discretionary spending throughout the last year and a half.

This committee has reduced spending more than any other committee in the House. I congratulate my committee member, and I urge my colleagues to vote for this conference report as we continue together down the roadway to a balanced budget by the year 2002.

Ms. HARMAN. Mr. Speaker, I rise today in strong support of the conference report on H.R. 3666, the VA–HUD–independent agencies appropriations bill for fiscal year 1997.

The conference report under consideration today is proof positive that Congress can deliver for the American people if it works from the sensible center. Subcommittee Chairman JERRY LEWIS and ranking member LEWIS STOKES should be commended for drafting a bill that is free of controversial riders and draconian spending cuts. Rather, this conference report moves us toward a balanced budget while continuing to invest in many key veterans, housing, space, and environmental programs.

As the representative of the aerospace center of the universe, I am especially pleased that the conferees provided $100 million more for NASA than the original House-passed measure. Investments in NASA and our Nation's space program are investments in our future. The recent discovery of possible ancient Martian life and Astronaut Shannon Lucid's record-setting stay in space have put NASA on the front pages of newspapers across the world. Such news reminds the public of the great challenges space exploration continues to pose to our Nation. We in Congress must do our part by keeping NASA robust.

Today's legislation fully funds several key NASA programs critical to our space program and to my South Bay district. The Mission to Planet Earth, a target of many for extreme budget cuts, will help us understand global climate change issues from space. The international space station will serve as our stepping stone to future space exploration. The advanced x-ray astrophysics facility telescope [AXAF] will soon be our Nation's next great observatory. The tracking and data relay satellites [TDRS] will provide NASA with crucial communication links to its astronauts, spacecraft and instruments. And, the X–33 Reusable Launch Vehicle Program will help us develop cheap and reliable access to space.

Mr. Speaker, a robust NASA will pay immediate dividends by keeping our aerospace industrial base vibrant. By turning our children on to science, space, and technology, investments in NASA will pay off in the future as we nurture the next generation of rocket scientists. I urge my colleagues to support this conference report and to stand up for our Nation's space program.

Mr. WAXMAN, Mr. Speaker, I rise to speak in regard to the VA–HUD appropriations bill and language in the conference report which may be construed to affect EPA's new Estrogenic Substances Screening Program.

As one of the principal authors of the Estrogenic Substances Screening Program in the Food Quality Protection Act of 1996 and the Safe Drinking Water Act Amendments of 1996, I would like to convey the bipartisan understanding we had in the Health and Environment Subcommittee of how this provision will be implemented by the Environmental Protection Agency.

The Estrogenic Substances Screening Program enhances the Environmental Protection Agency's authority to fully develop information on the endocrine disrupting effects of certain substances. The program will be an important tool to protect the public against endocrine disrupting substances.

The principal goal of the screening program is to determine which substances have endocrine effects. The screening program will determine whether certain substances have an effect in humans similar to an effect produced by a naturally occurring estrogen—that is—whether certain substances are endocrine disruptors.

The screening program must be developed not later than 2 years after enactment or August 2, 1998. The program must be implemented by August 2, 1999. These dates are nondiscretionary.

The conference report of the VA–HUD appropriations bill contains language which could be read to delay this program until the National Academy of Sciences conducts yet another massive study to perform comprehensive and redundant research. Obviously, this report language has no authority to delay a statutory deadline.

However, it is worth noting that the Commerce Committee had contemplated the release of a new National Academy of Sciences' report on this issue which is due out early next year. The Commerce Committee agreed to a 2-year timeline for development of the program so that this NAS study could be considered if it is released on schedule. It is my expectation that EPA will fully consider this report as well as any other relevant information in developing and implementing the screening program.

Consideration of available scientific information is crucial given the important policy decisions which will be made on the basis of the screening program's test results. As the House Commerce Committee report states, "The bill mandates EPA action 'as is necessary to ensure the protection of public health' if the screening program finds a substance to have an endocrine effect on humans."—Food Quality Protection Act of 1996, House Commerce Committee Report [Rept. 104–669 part 2 at p. 55].

In sum, the bipartisan agreement, enacted into law, is clear. The EPA has explicit statutory deadlines to meet. While conferees to the VA–HUD appropriations bill understandably wish to ensure a comprehensive study of the endocrine disruption issue is conducted, the conference report language does not and should not be construed to delay EPA's implementation of this important program.

Mr. McCOLLUM. Mr. Speaker, I rise in support of the fiscal year 1997 VA, HUD, and independent agencies appropriations conference report, and to thank my friend and colleague, Chairman JERRY LEWIS, for all his good work on this bill. Under the leadership of Chairman LEWIS and the members who serve on the Committee on Appropriations, we have been able to save the taxpayers over $6 billion while providing better service to all Americans.

This bill saves the taxpayer money while matching or exceeding the President's budget request on several issues important to the citizens of this Nation. For example, this conference report increases medical care for our veterans by $449 million over the fiscal year 1996 level. Housing for the elderly has been increased by $70 million above the President's request. In addition, this conference report protects the environment by providing $140 million more than the fiscal year 1996 bill for the Environmental Protection Agency and by fully funding the Superfund program. Finally, this bill keeps America looking forward by providing full funding for the space shuttle program and the international space station.

Mr. Speaker, I would like to take a moment to talk about a program that has the potential of saving the taxpayer a great deal of money. As we are all aware, natural disasters have cost taxpayers well over $50 billion during the last 6 years. As the costs of responding to these disasters has increased, many insurance companies have determined that they can no longer afford to extend insurance to certain homeowners. Although hurricanes have caused severe damages this year, we are fortunate to have avoided the major devastation that a hurricane or earthquake can cause when it hits a major metropolitan area.

Language contained in the House report and approved by the conference committee urges the Federal Emergency Management Agency [FEMA] to consider technology being developed at the Institute for Simulation and Technology [IST] at the University of Central Florida. IST recently completed a demonstration project of an emergency management simulation used to drive realistic and interactive hurricane response exercises at the county level. Mr. Speaker, this technology could easily be adapted to simulate a broader range of disaster types and allow the interaction of multiple levels of government agencies and private relief organizations.

One of the lessons I learned from my involvement with H.R. 1856, the Natural Disaster Partnership Protection Act, is that once a mutual disaster occurs improved disaster planning and a timely response saves the taxpayer a great deal of money. This occurs because a well planned and coordinated post-disaster response will minimize additional losses and prevent resources from being squandered. For example, in the case of a hurricane, the rains following the storm usually cause significant additional damage to properties already ravaged by the winds. The technology being developed at IST will help to ensure that in the future FEMA will have the ability to coordinate even more efficient responses to natural disasters.

Mr. Speaker, I also want to tell you and my fellow colleagues about an exciting new project being developed by Florida Hospital. A new city known as Celebration is being established on the outskirts of Orlando, and Florida Hospital, a nonprofit hospital, has undertaken the development and management of a model community health care system called celebration health. Several corporations, including General Electric and Johnson & Johnson, have designated Celebration Health to showcase their most advanced technologies, attracting interest from national and international visitors.

The programs and facilities being developed by Celebration Health are designed to promote wellness by active personal management of health care, as well as to provide state-of-the-art treatment of patients through improved systems that allow them to have more involvement in their treatment. Celebration Health's objective is to demonstrate how to provide communities with the best affordable health care service, and in so doing make the town of Celebration the healthiest community in America.

In addition to these programs, there are plans to include a center for health innovations which will serve as a living laboratory for testing and evaluating the best methods for providing community based health care services. This center will provide the opportunity for health care providers to perform demonstrations and tests of new medical techologies, treatments and procedures, while documenting measurable outcomes. At the outset, the center for health innovations plans to concentrate on the areas of health information technology, medical problems associated with the elderly, heart disease, and cancer.

Of particular note is the access to information that will be available to patients and health care providers. For example, homes will have state-of-the-art capabilities that will permit residents access to on-line information developed by Celebration Health. With the development of a comprehensive computer information network, patients and professionals can access clinical data, personal medical records, diagnostic and treatment processes that will provide quick and efficient use of resources from home, hospital, outpatient clinic or home health agency.

Overall, Celebration Health will include an outpatient clinic, a health activities center, primary care facilities, medical support services and will be linked to area medical centers. Celebration Health will be a showcase for model health care delivery, operating from a technically advanced health care facility and providing state of the art medical care.

I urge the Department of Housing and Urban Development [HUD] to follow the recommendation of the Appropriations Committee in the conference report to H.R. 3666, the fiscal year 1997 VA, HUD, and independent agencies appropriations bill. Specifically, the committee urged HUD to support activities sponsored or administered by non-profit community-based entities. Celebration Health fits this requirement and I would be happy to assist the Department in supporting this important endeavor.

My colleagues, again I would like to commend Chairman LEWIS and the members on the Committee on Appropriations for their hard work on the VA, HUD, and independent agencies conference report. Their hard work on cutting spending while protecting the American people from unfair cuts is evident in this bill. Mr. Speaker, I strongly support this bill and urge my colleagues to do the same.

Mr. SHUSTER. Mr. Speaker, I would like to thank Chairman LEWIS for his hard work on this bill and the close cooperation he has afforded me and my committee, the Transportation and Infrastructure Committee during the 104th Congress. This conference report is good for our country. H.R. 3666, the VA, HUD, and independent agencies appropriations bill uses a commonsense approach to strengthen programs which protect our environment, support our veterans, and which help build environmental infrastructure for rural America.

In particular, I would like to clarify the intent of one provision related to my congressional district in Pennsylvania. On page 74 of the printed conference report 104–812, which accompanies H.R. 3666, the conference report directs EPA to make grants for $1,150,000 for waste water improvement needs in Franklin, Huntingdon, and Clearfield Counties, PA.

The following list should serve as a guide to the intent of this provision: $400,000 for wastewater needs of Metal Township in Franklin County, PA. $400,000 for wastewater needs of Mt. Union, PA in Huntingdon County, $186,000 for wastewater needs of Huston Township, PA in Clearfield County and $164,000 for Osceola Mills, PA in Clearfield County. This list equals the amount included in the report wastewater needs in these three countries and should stand to clarify any misunderstanding that might result from this provision. I thank Chairman LEWIS for this opportunity to clarify the intent of this provision and appreciate his hard work on this bill.

Mr. RICHARDSON. Mr. Speaker, I rise in support of the mental health provisions in this conference report.

Earlier this year, I offered an amendment to the health insurance reform bill which would have assured that patients with mental illness could not be discriminated against. It is long past time that this House be given the opportunity to vote on this important issue.

Mental illnesses are just as serious of a medical condition as heart disease or cancer, yet insurers have for years not offered complete coverages for the treatment of mental illness.

Nearly one out of four of all adults suffer from some type of severe mental illness in the United States each year, yet 95 percent of the major insurance companies in America have limited coverage of psychiatric care.

Of the adults in America suffering from mental health problems, less than half are receiving care for their mental illnesses.

It is time to eliminate discrimination against mental illness and I applaud this conference report for taking an important first step toward doing that.

I would urge my colleagues to support this conference report and the important mental health parity provisions it contains.

Mr. RAMSTAD. Mr. Speaker, I rise with mixed feelings about this conference report.

I am concerned about both the integrity of our legislative process and the narrowness of our mental health care debate. Earlier this year, I supported the House-passed version of the fiscal year 1997 VA/HUD appropriations measure. Since then the Senate has incorporated into this funding package three new health care mandates—in fact, it may be more appropriate to now refer to the bill before us as the VA/HUD/HHS appropriation bill. These three new public health provisions are not small and technical in nature, but rather significant changes that will affect the delivery of health care for hundreds of thousands of Americans.

To my knowledge, none of these new health care provisions have been reported out by any of the House committees of jurisdiction, nor reached the floor for a vote. I trust this leap frogging of our established legislative process, with the significant public policy implications it entails, is not a practice this body should encourage.

My second concern is that by passing the fiscal year 1997 VA/HUD conference report, this Congress will take an important, but incomplete step toward a more equitable relationship between mental and medical health benefits.

Like the initial Senate-passed mental health parity provision in the Health Insurance Portability and Accountability Act, the provision before us again ignores all substance abuse—alcohol and drug—treatment services, which are clearly badly needed to help combat our Nation's No. 1 public health care problem. Silence and inaction are not golden.

I speak from first-hand personal experience about the benefits that alcohol treatment can bring to millions of Americans and their families. Today, alcohol and other drug addictions affect 10 percent of American adults and 3 percent of our youth. Untreated addictions last year alone cost our country nearly $167 billion.

For alcoholism alone, the public is paying $86 billion a year in direct and indirect costs attributed to the disease. Untreated alcoholics incur health care costs at least double that of nonalcoholics. Yet, most of our Nation's medical schools do not even require future health care professionals to study the disease of alcoholism.

When will Congress stop ignoring the disease of alcoholism?

As a recovering alcoholic, I know many Members of Congress need to be educated on this rampant public health problem. Only then will we be in a position to change our Nation's response to this costly, fatal disease.

To help begin our national education on alcoholism, I have introduced H.R. 3600, legislation to establish the Harold Hughes Commission on Alcoholism.

By establishing this 13-member volunteer commission for 2 years, this Congress can set into motion a commission with the task of studying methods to better coordinate existing Government programs responsive to alcohol abuse, increase public and private sector cooperation, step up the education of health care professionals on the disease of alcoholism, heighten research on alcoholism, and evaluate the cost effectiveness of treatment methods and services.

In the remaining days of this Congress, I strongly urge my colleagues to help begin our national awakening and education on the disease of alcoholism with the enactment of H.R. 3600.

I also challenge the 105th Congress to continue the important national dialogue begun this year to respond to our Nation's escalating alcohol and drug problem. We must review the importance of providing the same kind of parity we have before us today on substance abuse benefits. By working in a pragmatic, bipartisan fashion on parity and other important alcohol issues and drug concerns, we can achieve the balance between affordable health care insurance coverage, treatment and equity.

Mr. DINGELL. Mr. Speaker, I am especially pleased that the House conferees followed the Democratic motion to instruct the conferees to retain the Senate provisions regarding mental health insurance coverage and coverage for appropriate hospital stays for mothers and newborn infants. it is a single moment of enlightenment in this otherwise dismal Congress—a moment when we can say honestly we have put the needs of average American people ahead of the concerns of big insurance companies.

Equitable treatment of individuals with mental illness has been a long time coming, and these provisions—though they are not all that anyone could have wanted—are a major step in the right direction in two important ways. First, we are opening a door to understanding mental illness. Mental illness is not shameful, but treatable. It is not something to be concealed, but something to be helped. And second, it tells insurers that they must be fair about the coverage they provide to their clients, treating all conditions equitably and providing appropriate coverage so that patients can be treated and can be restored to health, from a physical or a mental cause.

The conference report also includes provisions that place in the hands of new mothers and their doctors the power to decide what kind of care these women need when they give birth to babies. Several months ago, I introduced the MOMS bill, which required health insurance coverage for at least 48 hours of hospital stay, or 96 hours for a Caesarean section, for new mothers and their babies. I am pleased that these requirements of my bill are included in the legislation before us.

However, my legislation also recognized that some doctors and new mothers may choose a shorter hospital stay. Thus, my bill provided that a shorter hospital stay could be accompanied by covered services providing care and support for the mother and the baby after they leave the hospital. But, again, that after care would be on the terms and conditions decided by the doctor and the mother together. The MOMS bill did not bring the heavy hand of Federal regulation on this decision.

Unfortunately, in negotiating this conference report, the Senate provisions relating to insurance coverage for after-hospital care of new mothers and babies were dropped. I understand the Senate provisions were considered too much Government interference. I regret that the conferees did not look at my legislation for guidance about this decision, because I think they would have found a happy solution.

While this provision is not perfect, it is good for women and for babies. It means that the era of the so-called drive-through delivery will come to an end. And it means that this important health care decision—what kind of care a new mother and a new baby need—will be made where all health care decisions should be made, in discussions between doctors and their patients.

Finally, Mr. Speaker, the conference report addresses the very real and pressing public health needs of more than 1.5 million people who live in Michigan's 16th Congressional District, as well as six other congressional districts in my home State. The Rouge River national wet weather demonstration project, a $1.4 billion effort to improve the condition of one of this Nation's most polluted rivers, will continue with $16 million in additional Federal commitments in fiscal year 1997. My colleague from Bloomfield Hills, Mr. KNOLLENBERG, worked very hard in the Appropriations Committee to assure inclusion of these much-needed funds, and as a result, dozens of communities in Metropolitan Detroit will gain from a cleaner and more usable Rouge River watershed.

Mr. Speaker, I urge adoption of the conference report.

Mr. WELDON of Florida. Mr. Speaker, I rise in support of this legislation. I am pleased that the bill provides the full amount requested by the President for NASA's human space flight programs. This will allow the functions at Kennedy Space Center, the launch site for all human space flight, to be fully funded at the budget requested by the President. This will ensure the safe operation of our Nation's space shuttle fleet.

The overall NASA budget is $13.7 billion, just $100 million under the President's budget request. The $100 million reduction comes in the science, aeronautics, and technology account, and will have no adverse impact on the operations of our space shuttle fleet or Kennedy Space Center.

This funding is important for the future of our Nation. We are the world's leader in space and we are moving forward with the next step in this leadership, the space station. We already have over 100,000 pounds of hardware ready for launch. This Congress has soundly rejected efforts to eliminate the space station.

The VA/HUD/Independent Agencies Appropriations Subcommittee recognizes clearly that NASA has already done a significant amount of voluntary downsizing, and it can truly serve

as a model for other parts of the Federal Government as we reduce the size and scope of Government. However, NASA can take no further cuts in this year's budget. The committee recognized this and provide an amount nearly the President's budget request. Our children and grandchildren will thank you for supporting NASA and supporting their future.

The bill also contains provisions that would allow NASA to offer buyouts to NASA employees. This is important as some additional downsizing may take place at NASA centers around the country. I was pleased to support the inclusion of this provision, which should make the transition easier for NASA employees.

Finally, the bill includes language that urges the VA to move forward with the outpatient clinic in Brevard County, FL. For nearly a decade and one-half, veterans in this part of Florida have been promised a medical facility and after all these years have nothing to show for it but broken promises. That has changed, earlier this year the Congress passed and the President signed into law an authorization and appropriation of $25 million for the construction of an outpatient clinic in Brevard.

In a letter to me dated July 17, 1996, Secretary of Veterans Affairs Jesse Brown committed to me and the veterans of Florida that he would award a design contract by the end of September. He has yet to do this, and the bill before us includes language directing the Secretary to move forward expeditiously with this clinic. I am pleased that the bill includes this direction and hopefully it will encourage the Secretary to act quickly. The money has been available for nearly 5 months, and it's past time to get moving.

Mr. THOMAS. Mr. Speaker, I rise in support of the conference report on H.R. 3666, the VA/HUD appropriation for 1997.

In particular, as chairman of the Subcommittee on Health of the Committee on Ways and Means, I want to point out that two legislative provisions contained in the conference report amend Public Law 104–191, the Health Insurance Portability and Accountability Act of 1996, which falls within the jurisdiction of the Committee on Ways and Means. The rule, which the House just passed, waives the necessary points of order allowing the conference report to be considered with these legislative items.

First, title VI of the conference report, titled "Newborns' and Mothers' Health Protection Act of 1996," would introduce new rules which must be met by group health plans subject to the requirements of the Health Insurance Portability and Accountability Act of 1996. These rules would prevent group health plans from restricting certain benefits for hospital care in connection with childbirth.

Second, title VII of the conference report, titled "Parity in the Application of Certain Limits to Mental Health Benefits," would introduce new rules which also must be met by group health plans subject to the requirements of the Health Insurance Portability and Accountability Act of 1996. These rules establish certain requirements concerning application of lifetime or annual limits to mental health benefits, if mental health benefits are included in the group health plan.

The conferees have noted in their report language that, in order for this provision to be fully implemented, the Internal Revenue Code must be appropriately amended. Such amendments would permit enforcement of these new requirements through the tax penalty structure that was recently enacted in the Health Insurance Portability and Accountability Act applicable to group health plans. In other words, we are adding new requirements to only the Public Health Service Act and ERISA—Employee Retirement and Income Security Act—portions of the underlying law without being able at this time, to make the necessary conforming requirements to the Internal Revenue Code due to procedural constraints on this appropriations bill. It is our intention on the Committee on Ways and Means to move the conforming tax provisions as soon as possible.

It is also important to note that the maternal stay provision has been scored as having a negative income and payroll tax revenue effect of $112 million over the period 1997–2002. The mental health parity provision has a negative revenue effect of $431 million over the same period. These revenue losses are clearly a matter of concern and responsibility for the committee with jurisdiction over tax matters.

The legislative language needed to accomplish full implementation of the maternal stay and mental health provisions in the framework of the underlying Health Insurance Portability and Accountability Act, is reflected in the text of H.R. 4135, introduced today by myself and Mr. STARK, the ranking minority member of the Subcommittee on Health. We are entering the text of H.R. 4135 in the CONGRESSIONAL RECORD to indicate the changes the Committee on Ways and Means intends to pursue.

Finally, we have exchanged letters regarding these jurisdictional matters with the chairman of the Committee on Appropriations and I understand that these letters will be placed in the CONGRESSIONAL RECORD.

H.R. 4135

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 "Newborns' and Mothers' Health Protection and Mental Health Parity Implementation Amendments of 1996".

SEC. 2. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986 TO IMPLEMENT THE NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT OF 1996 AND THE MENTAL HEALTH PARITY ACT OF 1996.

(a) IN GENERAL.—Subtitle K of the Internal Revenue Code of 1986 (as added by section 401(a) of the Health Insurance Portability and Accountability Act of 1996) is amended—

(1) by striking all that precedes section 9801 and inserting the following:

"Subtitle K—Group Health Plan Requirements

"CHAPTER 100. Group health plan requirements.

"CHAPTER 100—GROUP HEALTH PLAN REQUIREMENTS

"Subchapter A. Requirements relating to portability, access, and renewability.

"Subchapter B. Other requirements.

"Subchapter C. General provisions.

"Subchapter A—Requirements Relating to Portability, Access, and Renewability

"Sec. 9801. Increased portability through limitation on preexisting condition exclusions.

"Sec. 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status.

"Sec. 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.",

(2) by redesignating sections 9804, 9805, and 9806 as sections 9831, 9832, and 9833, respectively,

(3) by inserting before section 9831 (as so redesignated) the following:

"Subchapter C—General Provisions

"Sec. 9831. General exceptions.

"Sec. 9832. Definitions.

"Sec. 9833. Regulations.", and

(4) by inserting after section 9803 the following:

"Subchapter B—Other Requirements

"Sec. 9811. Standards relating to benefits for mothers and newborns.

"Sec. 9812. Parity in the application of certain limits to mental health benefits.

"SEC. 9811. STANDARDS RELATING TO BENEFITS FOR MOTHERS AND NEWBORNS.

"(a) REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—

"(1) IN GENERAL.—A group health plan may not—

"(A) except as provided in paragraph (2)—

"(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

"(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a cesarean section, to less than 96 hours; or

"(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

"(2) EXCEPTION.—Paragraph (1)(A) shall not apply in connection with any group health plan in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

"(b) PROHIBITIONS.—A group health plan may not—

"(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

"(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

"(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

"(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

"(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a

hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

"(c) RULES OF CONSTRUCTION.—

"(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

"(A) to give birth in a hospital; or

"(B) to stay in the hospital for a fixed period of time following the birth of her child.

"(2) This section shall not apply with respect to any group health plan which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

"(3) Nothing in this section shall be construed as preventing a group health plan from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

"(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

"(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (including a decision, rule, regulation, or other State action having the effect of law) for a State that regulates such coverage that is described in any of the following paragraphs:

"(1) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a cesarean section.

"(2) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

"(3) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

"SEC. 9812. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

"(a) IN GENERAL.—

"(1) AGGREGATE LIFETIME LIMITS.—In the case of a group health plan that provides both medical and surgical benefits and mental health benefits—

"(A) NO LIFETIME LIMIT.—If the plan does not include an aggregate lifetime limit on substantially all medical and surgical benefits, the plan may not impose any aggregate lifetime limit on mental health benefits.

"(B) LIFETIME LIMIT.—If the plan includes an aggregate lifetime limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable lifetime limit'), the plan shall either—

"(i) apply the applicable lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different aggregate lifetime limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health benefits by substituting for the applicable lifetime limit an average aggregate lifetime limit that is computed taking into account the weighted average of the aggregate lifetime limits applicable to such categories.

"(2) ANNUAL LIMITS.—In the case of a group health plan that provides both medical and surgical benefits and mental health benefits—

"(A) NO ANNUAL LIMIT.—If the plan does not include an annual limit on substantially all medical and surgical benefits, the plan may not impose any annual limit on mental health benefits.

"(B) ANNUAL LIMIT.—If the plan includes an annual limit on substantially all medical and surgical benefits (in this paragraph referred to as the 'applicable annual limit'), the plan shall either—

"(i) apply the applicable annual limit both to medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such medical and surgical benefits and mental health benefits; or

"(ii) not include any annual limit on mental health benefits that is less than the applicable annual limit.

"(C) RULE IN CASE OF DIFFERENT LIMITS.—In the case of a plan that is not described in subparagraph (A) or (B) and that includes no or different annual limits on different categories of medical and surgical benefits, the Secretary shall establish rules under which subparagraph (B) is applied to such plan with respect to mental health benefits by substituting for the applicable annual limit an average annual limit that is computed taking into account the weighted average of the annual limits applicable to such categories.

"(b) CONSTRUCTION.—Nothing in this section shall be construed—

"(1) as requiring a group health plan to provide any mental health benefits; or

"(2) in the case of a group health plan that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).

"(c) EXEMPTIONS.—

"(1) SMALL EMPLOYER EXEMPTION.—This section shall not apply to any group health plan for any plan year of a small employer (as defined in section 4980D(d)(2)).

"(2) INCREASED COST EXEMPTION.—This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.

"(d) SEPARATE APPLICATION TO EACH OPTION OFFERED.—In the case of a group health plan that offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately with respect to each such option.

"(e) DEFINITIONS.—For purposes of this section:

"(1) AGGREGATE LIFETIME LIMIT.—The term 'aggregate lifetime limit' means, with respect to benefits under a group health plan, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan with respect to an individual or other coverage unit.

"(2) ANNUAL LIMIT.—The term 'annual limit' means, with respect to benefits under a group health plan, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the plan with respect to an individual or other coverage unit.

"(3) MEDICAL OR SURGICAL BENEFITS.—The term 'medical or surgical benefits' means benefits with respect to medical or surgical services, as defined under the terms of the plan, but does not include mental health benefits.

"(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

"(f) SUNSET.—This section shall not apply to benefits for services furnished on or after September 30, 2001."

(b) CONFORMING AMENDMENTS.—

(1) Chapter 100 of such Code (as added by section 401 of the Health Insurance Portability and Accountability Act of 1996 and as previously amended by this section) is further amended—

(A) in the last sentence of section 9801(c)(1), by striking "section 9805(c)" and inserting "section 9832(c)";

(B) in section 9831(b), by striking "9805(c)(1)" and inserting "9832(c)(1)";

(C) in section 9831(c)(1), by striking "9805(c)(2)" and inserting "9832(c)(2)";

(D) in section 9831(c)(2), by striking "9805(c)(3)" and inserting "9832(c)(3)"; and

(E) in section 9831(c)(3), by striking "9805(c)(4)" and inserting "9832(c)(4)".

(2) Section 4980D of such Code (as added by section 402 of the Health Insurance Portability and Accountability Act of 1996) is amended—

(A) in subsection (c)(3)(B)(i)(I), by striking "9805(d)(3)" and inserting "9832(d)(3)";

(B) in subsection (d)(1), by inserting "(other than a failure attributable to section 9811)" after "on any failure";

(C) in subsection (d)(3), by striking "9805" and inserting "9832";

(D) in subsection (f)(1), by striking "9805(a)" and inserting "9832(a)".

(3) The table of subtitles for such Code is amended by striking the item relating to subtitle K (as added by section 401(b) of the Health Insurance Portability and Accountability Act of 1996) and inserting the following new item:

"SUBTITLE K. Group health plan requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.

Mr. RANGEL. Mr. Speaker, I commend my good friends, Congressman STOKES, and Congressman JERRY LEWIS, ranking member and chairman respectively of the House Appropriations Subcommittee on Housing and Urban Development, Veterans Administrations Subcommittee for all their hard work in producing

the conference report on the fiscal year 1997 VA–HUD appropriations bill.

I want to take this opportunity to discuss one of the important programs that has been supported in the past by this subcommittee, the Economic Development Initiatives of the Department of Housing and Urban Development. The EDI program is part of HUD's Community Development Block Grant Program. This program is assigned the important task of financing efforts that generate economic revitalization and link people to jobs and social services, goals which are critical to the communities which I represent in Harlem and Washington Heights.

I hope that over the next year Congressmen LEWIS and STOKES work with the Department of Housing and Urban Development to consider requests to fund grant proposals in the Economic Development Initiative Program. I also encourage the Department that if it does decide to fund such proposals, that it give strong consideration to an important project in my district, Columbia University's Center for Disease Prevention.

The Center for Disease Prevention provides a crucial instrument for the creation of new business and jobs in the economically depressed neighborhoods of Washington Heights and Harlem. CDP, as well as the larger Audubon Research Park of which it is a vital component, will be the central element of the new Enterprise Zone program in New York, providing job training and business development services to these north Manhattan neighborhoods. Furthermore, CDP will provide a center for enabling American biomedical science to generate new business in advanced pharmaceuticals and medical technologies in this economically depressed area. The purpose of the entire project is to attract entrepreneurs and expand businesses and establish the area as a hub of biotechnology industry employment.

When completed, the CDP will support 400 new jobs. The entire Audubon project will create nearly 2,500 jobs, including scientific, research, laboratory, clerical, administrative, retail, and building operations and support, and young people in the area will have access to job training and educational opportunities that would otherwise not be available to them. In addition to this important economic stimulus, the health benefits from new discoveries at CDP (and the entire Park) will flow directly to the surrounding community which is characterized by high rates of illness associated with poverty poor health, and urban distress.

In closing, I would appreciate the subcommittee encouraging the Department of Housing and Urban Development to consider proposals under CDBG's Economic Development Initiative program, and if such proposals are considered, I will work with the Department to favorably review Columbia University's Center for Disease Prevention, a project that will promote economic revitalization and job training and creation in New York City.

Mr. TOWNS. Mr. Speaker, I rise in full support of the maternity stay agreement reached in the Conference Report on VA–HUD appropriations for fiscal year 1997. The Maternity Stays provision ensures that newborn babies and their mothers receive appropriate health care in the critical first few days following birth.

The 48-hour minimum stay is consistent with steps being considered by some States and is very similar to the bill which I introduced during the 104th Congress, The Mother and Child Protection Act of 1996.

The typical length of stay over a decade ago for a woman and her infant after delivery was 3 to 5 days for a vaginal delivery and 1 to 2 weeks for a caesarean delivery. Over the past few years the typical length of stay decreased to 24 hours or less for a uncomplicated vaginal delivery and two or three for caesarean. In some regions of the country, hospitals are now discharging women 6 to 12 hours following a vaginal birth. The Conference Report on VA–HUD Appropriations for fiscal year 1997 will stop this problem from occurring.

I am pleased that my colleagues all agree that shorter hospital stays are placing the health of many newborns and mothers at risk. We all agree that the shorter stay increases the incidence in newborns of jaundice, dehydration, phenylketonuria [PKU], and other neonatal complications.

Prevention has always been a way to cut health care costs. However, discharging mothers and newborns early creates its own costs. No longer will a child have to suffer brain damage or other permanent disabilities because they did not receive adequate early care, insurers will not be forced to pay for treating patients for conditions which could have been prevented or lessened if caught earlier.

Mr. Speaker, the VA–HUD appropriations for 1997 will allow new mothers to focus on learning to care for their newborns and themselves instead of being concerned with when their insurance will run out. I also want to lend my full support of the mental health parity provisions contained in the 1997 VA–HUD Conference Report. As a trained social worker, I am quite comfortable with expressing the important of providing mental health coverage to the mentally ill population.

The mental health parity provision will help to eradicate the stigma that is commonly placed on mental health patients. This provision will begin to wash away the deep rooted ignorance of thinking that mental illness is due to some sinful behavior. This kind of stigma has kept many individuals from seeking help, and it has prevented health professionals from providing needed services. It is my honest belief that the stigma associated with mental health will be greatly reduced by this provision. No longer will patients be too embarrassed to seek help. And, no longer will providers be forced to turn patients away, and thus discriminate between illnesses.

I urge the adoption of these provisions.

Mr. FAZIO of California. Mr. Speaker, I rise in support of H.R. 3666, the VA/HUD and Independent Agencies Appropriations Conference Report. This bill provides a total of $84.7 billion for veterans and housing programs, the Environmental Protection Agency, NASA, and the National Science Foundation. While this bill falls well short of the administration's request, overall funding is $2.3 billion higher than last year's level. I would like to thank the chairman of the subcommittee, JERRY LEWIS, for moving this bill with little controversy, and I would like to recognize and thank the ranking member LOUIS STOKES for all of this assistance in getting this bill to the floor.

Although I am pleased that funding for the replacement hospital at Travis Air Force Base is included in this bill, I am concerned that construction for this hospital will continue to be delayed and cause veterans to wait even longer for adequate medical facilities. I would just like to point out that until last year this hospital was on track to be finished by the end of 1998. Now it looks as though we will not even begin construction until 1998 at the earliest.

I know that some members of the other body would like to see additional justifications for this project. However, with all due respect, Congress has already authorized this hospital. We don't need any more studies or more delays. We need to get concrete in the ground and begin to construct the hospital for our veterans.

I would again like to recognize the steadfast support of Operation VA, and in particular, Carolyn Rennert and George Pettygrove, who have been unwavering in their support for the construction of this hospital. The entire Travis community, including many hard working veterans and citizens throughout Solano County, deserve praise for their efforts. I would also like to thank the chairman of the VA–HUD Subcommittee, JERRY LEWIS, for his support for the hospital. His commitment to the hospital is a significant step in ensuring that the hospital at Travis becomes a reality.

I am also pleased that the bill includes funding for the Sacramento River Toxic Pollutant Control Program [SRTPCP] within the EPA's Environmental Programs and Management Account. This is a cooperative program conducted by the Sacramento Regional County Sanitation District and the Central Valley Regional Water Quality Control Board.

The Sacramento River is the largest and most important river in California. It supplies water for agricultural, municipal, and industrial uses as well as providing important recreational benefits. Unfortunately, this key environmental and economic asset is threatened by pollutant loadings that jeopardize these beneficial uses. The river exceeds State and EPA-recommended water quality criteria developed in the early 1990's for a number of toxic pollutants, particularly metals such as copper, mercury, and lead.

The SRTPCP, which is in its third year, was created to bring the Sacramento River into compliance with water quality standards. The program is based on watershed management concepts including the development of site-specific water quality standards and technically feasible, cost-effective programs to achieve water quality standards in the river and its tributaries.

I am also pleased that the conference committee was able to address three significant problems in the field of health policy.

First, I am glad to see that the conferees included a provision which will require insurance companies to pay for a mother and her newborn to stay in the hospital for at least 48 hours following delivery. Many of us have sponsored legislation which would achieve that same goal and I am glad that this bill includes that provision.

Next, I am pleased to see that the mental health parity provision was included in the

conference report. This is an issue of fundamental fairness. Moreover, the Congressional Budget Office [CBO] has indicated that this provision will result in a minute increase in health insurance premiums. This is a small price to pay for equal treatment which will benefit millions of Americans.

Finally, I am particularly happy that the conference committee has included provisions that will have the Veterans Affairs provide certain benefits to children born with spina bifida, if one of the child's parents was exposed to Agent Orange while serving in the Vietnam War. I believe that we have the moral obligation to help these families. By having the VA provide benefits to these families who are in need of assistance, we can honor those who have served and stood by this country in times of need.

In closing, Mr. Speaker, I want to express my thanks to the conference committee for their fine work and urge my colleagues to support this bill.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of H.R. 3666, the VA, HUD and Independent Agencies Appropriations Act. I ask unanimous consent to revise and extend my remarks.

This legislation contains several important provisions for my home State of Florida. First, the conference report for H.R. 3666 includes $20 million for the construction of the first phase of a new spinal cord injury [SCI] unit at the James Haley VA Medical Center in Tampa, FL.

The State of Florida has one of the highest concentrations of veterans with spinal cord injuries [SCI] or spinal cord disease in the country. The 70 SCI beds currently in operation at the James A. Haley VA Medical Center were originally intended for use by psychiatry patients and are inadequate for the unique needs of SCI patients. The VA first proposed expanding the current SCI unit in 1979.

The construction of a new SCI unit will replace Tampa's severely overburdened SCI unit and improve services to meet the high demand for specialized care provided to spinal cord injured veterans in the State of Florida.

I have been working on this project for several years and am pleased that the House Appropriations Committee recognized the importance of the SCI unit project and included its funding in H.R. 3666. I want to thank Chairman LEWIS and ranking minority member STOKES for their continuing support of this important project. This construction funding will allow the process of building the new spinal cord injury unit to move forward.

The conference report also retains a Senate amendment which directs the Secretary of Veterans Affairs to develop a national plan for the allocation of health care resources among health care facilities. This provision would ensure that veterans have similar access to health care regardless of where they live.

This resource allocation problem has been verified by the General Accounting Office in a report entitled "Veterans' Health Care: Facilities' Resource Allocation Could Be More Equitable." The GAO found that the Department of Veterans' Affairs continues to allocate funding based on past budgets rather than current needs. In addition, the Agency has failed to implement the resource planning and management system [RPM] developed 2 years ago to help remedy funding inequity.

Since coming to Congress, I have heard from veterans who have moved to Florida and have been denied care by the VA. Prior to moving, these veterans were able to receive care from their local VA medical facility. However, once they move to Florida, which has one of the lowest rates of non-mandatory care in the country, they are turned away by the VA because they fall into the discretionary care category.

It is hard for these veterans to understand how they can lose their VA health care simply by moving to another part of the country. As their representative in Congress, I share their frustrations. Therefore, I am pleased that the House conferees agreed to the Senate amendment.

I urge my colleagues to support H.R. 3666.

Thank you, Mr. Speaker.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the conference report for H.R. 3666, the FY VA–HUD appropriations bill. I urge all of my colleagues to join in passing this important measure.

As chairman and ranking minority member of the VA–HUD appropriations subcommittee, our colleagues, Mr. LEWIS and Mr. STOKES, have a very difficult job—almost by definition—trying to steer the 3d largest spending bill through the Congress in these times of fiscal restraint. I commend them for their decision to, in some very important areas, adopt the more favorable funding levels proposed by the Senate, including such high priorities as: a $726 million increase in funding for the Veterans Department; a $323 million increase in funding for the Housing and Urban Development Department; and a $184 million increase in funding for the Environmental Protection Agency.

At the same time, this appropriation conference report meets all of its budget targets as part of our ongoing effort to balance the budget by the year 2002 by simply slowing-down the growth rate of Federal spending.

But, more than any particular funding level that is contained in this bill, I am rising in strong support of H.R. 3666 because the conferees retained two very important Senate amendments regarding health care for American families.

In this respect, I particularly wish to commend Representative STOKES for his dedication in bringing the focus and spotlight to the health insurance provisions attached to this bill by the Senate. He brought this issue to the attention of this House through his very successful motion to instruct the conferees almost 2 weeks ago. Because of his bold action, this conference committee report contains the so-called Bradley-Frist amendment requiring at least 48 hours of hospitalization coverage for women giving birth and the Domenici-Wellstone amendment requiring non-discrimination or parity in a health plan's annual and lifetime limits for physical and mental illness were both clarified and retained for the conference committee.

48-HOUR HOSPITALIZATION FOR MOTHERS W/NEWBORN CHILDREN

The Bradley-Frist amendment builds on the law that New Jersey and more than 20 other States have recently enacted in response to some of the latest so-called cost savings proposals—which in reality ration care and violate standards of modern medicine—from the managed care industry. In fact, some managed care plans send mothers with newborn children home 12 or 18 hours after delivery in order to cut costs and enhance their bottom lines. These practices are a disgrace and our action here today will mark the beginning of our standing up for the tradition of quality of care in our Nation.

Women don't go to hospitals to give birth for the hotel room service they receive there—mothers and newborn children should be able to stay in the hospital as long as medically necessary. Establishing 48 hours as a minimum hospital stay isn't really asking for too much for a health insurance plan to provide for a mother with a newborn child. Medical monitoring for at least 48 hours is necessary if we are to guard against new mothers hemorrhaging or newborns getting jaundice, in order to avoid the threat of mental retardation.

MENTAL HEALTH PARITY COMPROMISE

And, in addition, the conference report included a modified version of the Domenici-Wellstone-Roukema mental health parity amendment. The latest compromise version of this legislation simply requires health insurance companies to have equal annual and lifetime caps on physical and mental illness.

This is only a first step toward ending the discrimination that insurance plans practice against the mentally ill. But I believe it will be a landmark breakthrough—a first step, if you will, toward full parity.

This requirement will go into effect in 1998 and remain in effect until 2001 for employers with more than 50 workers. And, if insurance premiums increase by more than 1 percent as a result of this change, employers will not be required to offer parity.

Now, I should advise my colleagues that the Congressional Budget Office [CBO] has reviewed the Domenici-Wellstone-Roukema plan and concluded that the health insurance premiums will increase by less than one-fifth of 1 percent.

In other words, CBO believes that health premiums will not even increase by a half of one-percent, let alone anything more than 1 percent, as a result of this modest mental health parity requirement.

In the final analysis, what that really means in plain English is "mental health parity is the right thing to do for workers, and it makes good business sense, too."

While Senator DOMENICI and I originally sponsored legislation that required full-blown parity of health insurance treatment between physical and mental illness, people of good faith on the conference committee were able to reach consensus and compromise in order to help millions of people who suffer from mental illness, and for that, I thank Chairman LEWIS and subcommittee ranking minority member STOKES.

With this breakthrough, we are advancing beyond the ignorance and apathy that has characterized the treatment of the mentally ill by the insurance industry.

Mr. Chairman, I want to again commend Senator DOMENICI and the conferees for this enlightened and humane legislative package. I urge its passage and enactment.

Mr. VENTO. Mr. Speaker, I rise in reluctant support of the Conference Agreement on H.R.

3666, the VA, HUD and independent agencies appropriations bill. This fiscal year 1997 conference agreement is overall an improved bill in comparison to the extreme bill passed by the majority party of the House last year and by the measure that the House earlier acted on this year for fiscal year 1997.

I remain concerned, however, that this measure largely out of step with people, priorities and shared sacrifice which should characterize reductions in spending necessary to achieve sound fiscal balance. I do pragmatically understand, however, that more often than not the votes in this Congress simply don't reflect American public opinion and priorities.

On the whole, the agreement basically maintains the status quo with 1996 levels of spending; that is levels established After serious cuts of between 20 and 30 percent were made to housing and homeless programs in 1995–96. Unfortunately, it does continue the trend of cutting housing programs. While it changes the names of many of the housing accounts, the agreement is unable to mask 17 percent cuts from last year's levels in section 202 elderly housing and section 811 disabled housing and a 10 percent cut in section 8 rental assistance contract renewals. It is impossible to mask the fact this bill provides no new section 8 tenant rental assistance. This bill does not even attempt to put a dent in the number of households that have worst case housing needs. HUD has reported to us that some 5.3 million people who do not receive housing assistance are underhoused or are paying much too much of their income to be housed. By treading water, this bill's allocation for HUD espouses a policy of inadequate and limited help for people in need of housing assistance.

I am pleased at the continued funding for the drug elimination grant program for public and assisted housing, a program I have fought to keep authorized in the 104th Congress. I note, however, that the inability to compromise or work bipartisanly has put off a partial authorization of housing programs in this Congress. We are left, again, to ask the appropriators to carry forward critical programs and to enact only incremental or temporary reforms in public and assisted housing, FHA multi-family, FHA single-family, and the FHA assignment program.

I am hopeful that the authorizing subcommittee will work bipartisanly next year on all housing programs in our jurisdiction so that we can move forward on FHA reforms to expand homeownership opportunities, neighborhood and economic development programs so we continue to improve our assistance to our Nation's communities, and public housing reform so we can move forward permanently with appropriate devolution of authority to local housing agencies balanced by Federal standards to protect low-income tenants and aspiring residents.

As a senior member of the authorizing committee for housing programs, I have grave concerns about a bill that basically maintains about $4 billion worth of cuts from FY 1995 levels and undercuts the Administration's request by $2.3 billion while at the same time continuing to provide $5.4 billion to NASA for human space flight, the space station, in its tenth reincarnation. Like so many before it, this appropriations bill continues to place deficit reduction on the backs of the most vulnerable Americans—the poor, the homeless, and even our elderly.

EPA funding is $330 million below the Administration's request. A strong and cost effective community program, AmeriCorp, is level-funded at $403 million by this Conference Agreement. Perhaps the only "safe" programs are those important programs within the Department of Veterans Affairs which has available over $39 billion. Even in this instance, we must acknowledge the greater needs for veterans and these programs. Despite funding less than the Administration requested, positive increases in VA medical care and major construction of VA facilities are achieved.

Although total spending for the Environmental Protection Agency is slightly higher than last year's level, if we are to protect the air we breathe and water we drink, we must be serious about the funding for this important agency. The bill also restores the $725 million funding to the state drinking water revolving funds which was lost when the Safe Drinking Water Act was reauthorized too late to include these funds in 1996 fiscal year. If the majority had been doing its job correctly, this deadline would have been respected and this funding would have been available as soon as the Safe Drinking Water Act was passed.

I do want to note my strong support for the $50 million of funding for the Neighborhood Reinvestment Corporation and for the provision of $45 million to continue the promising Community Development Financial Institutions Program. Both of these represent good public private partnership that would be penny wise and pound foolish to further cut or deny. I also note that the FEMA Emergency Food and Shelter Program has been level funded at $100 million for fiscal year 1997. Here again is an essential program that is a very successful partnership that should be pursued as vigorously as possible. With the non-profits who are attempting to cope with the needy, the homeless.

Mr. Chairman, while this agreement is a better bill, a less contentious bill, than last year's or this year's initial House-passed measure, I am concerned that this bill could have far reaching adverse effects as cuts masquerade as level funding amounts. The trick is viewing the reality of those cuts compared to a 1995 baseline. What I see is a continued reality of human deficits and environmental tragedies that will not be assuaged or fooled by the funding in this bill.

While this measure breaks the rules for consideration of policy matters. The fact is this 104th Congress has repeatedly disregarded such process specifics.

I am pleased to see the addition of several important health provisions to this bill. I am a supporter of parity health insurance coverage of mental illness and this bill states that insurers must provide the same spending cap for mental illness as they do for physical illness. This is a common sense measure of fairness.

Another important consumer victory in this bill is the inclusion of a provision to end "drive-through deliveries." The bill require insurance plans to provide for at least a two-day hospital stay for mothers and newborns following a normal delivery, and a four-day stay following a Caesarean procedure. I am a cosponsor of separate legislation to provide this protection and am pleased to see it included in this Conference report.

Although I do not support every aspect of the bill and have grave misgivings about some of the NASA programs funded at the expense of housing and homeless programs, along with the tremendous number and dollar amount of the earmarks made in veterans and EPA programs. I will support the bills—as this Congress and administration have been through this exercise during this section once and the outcome and mark established in 1996 Fiscal Year is improved in this 1997 fiscal year version—compromise and reality argues for a positive vote. With the hope that the future will change the priorities and the mind set in Congress that has skewed the programs this session.

Mr. NADLER. Mr. Speaker, I rise in support of the Veterans Administration and Housing and Urban Development Appropriations Conference Report. The inclusion of maternity care provisions which require health insurance companies to provide a minimum hospital stay of 48 hours following the delivery of a child and a 72 hour stay for cesarean sections; an increase of $25 million for a total of $196 million for Housing Opportunities for People with AIDS; and the adoption of a mental health party provision, all represent great victories.

I am proud that maternity care protection, modeled on legislation which I introduced with Representative TORRICELLI, the "Mothers' and Infants' Good Health Act," is included in this bill. As health care insurance companies continue to cut costs by reducing services and hospital stays the care given to mothers and newborns has suffered greatly. What has come to be known as "express deliveries" has led to numerous cases of undetected and untreated ailments—some potentially fatal—in both infants and mothers after they return home. The result has been additional complications, with more suffering, higher costs with increased emergency room visits, later hospital readmissions, and long lasting disability. The fact that it is now becoming the standard of care to release mothers and infants in under 24 hours following birth is atrocious.

As the trend continues for health insurance companies to sacrifice care for the sake of profits, the government has an obligation to make health insurers accountable to provide adequate and reliable health care for all Americans.

Numerous states have already enacted laws or regulations to enforce this provision. It's time that this became the national standard of care. I commend the Conferees for including it.

As a Representative of New York City, the city hardest hit by AIDS, I am pleased that this agreement contains an extra $25 million for the Housing Opportunities for People with AIDS program.

At any given time, one-third to one-half of all Americans with AIDS are either homeless or in imminent danger of losing their homes. HOPWA is the only federal housing program that specifically provides cities and states hardest-hit by the AIDS epidemic with the resources to address the housing crisis facing

people living with AIDS in communities throughout the nation. This program is critically important is not only securing safe and suitable housing for the millions of people living with AIDS, but also for sustaining the health of those who have lost their housing or who have been homeless. Without stable housing, people with AIDS are at a greater risk of premature death due to exposure to other diseases, poor nutrition, stress, and lack of medical care.

The increase of $25 million for HOPWA will truly make a difference for people with AIDS in New York and the nation.

As millions of Americans suffer from mental illnesses which are quite often treatable, the mental health parity provisions in this bill are extremely important. To require health insurance companies to equalize the coverage of mental and physical illness is only fair and right, and to deny equal coverage amounts to nothing less than discrimination. As we continue to educate people about the nature of mental illness—that it is treatable like any other illness—we must continue to ensure that individuals suffering from those illnesses receive the help they need.

After a long year of fighting for these basic housing and health care protections I am pleased to see them included in this bill and urge my colleagues to support these very important provisions.

Mr. GOSS. Mr. Speaker, I am pleased to support H.R. 3666, the fiscal year 1997 VA/HUD appropriation bill. While a number of Members will undoubtedly touch on other important provisions in the bill—including parity for mental health benefits and mandatory stays for mothers and newborns—I would like to focus my limited time on veterans health care.

As we work to balance the budget, it is imperative that we maintain our sacred compact with our veterans. Again this year, we have demonstrated that you can save money and eliminate wasteful spending without cutting back on high priority items like veterans services. For fiscal year 1997, we have provided $17 billion for veterans medical care—a $449 million increase from last year's level and a raise from the President's request.

We have also moved to transform our health care delivery system from a hospital based system to one that emphasizes more cost-efficient primary and outpatient care. In my own district, we have moved forward to expand services to our underserved veterans through expansion of our Fort Myers outpatient clinic. I am pleased to report that the VA has chosen a site and we are on schedule for completion.

Veterans' health care continues to present other serious challenges as we enter the next century. For too many veterans in growth States like Florida, a guaranteed entitlement of medical care has become a hollow promise. We must find a way to have the dollars follow the veterans rather than being distributed in antiquated formulas. The Graham-McCain amendment, adopted in conference, is an excellent step in the right direction as we work for fairness and equity in the VA health care system. I hope and expect that the VA will follow this clear directive and expeditiously work for a better formula.

I applaud Chairman LEWIS and Ranking Member STOKES for a job well done and I urge a yes vote for this important legislation.

Mrs. VUCANOVICH. Mr. Speaker, many people have stated that the VA-HUD-Independent Agencies Appropriations Subcommittee has to deal with everything but the kitchen sink. As a member of this important subcommittee, I can tell you that this year we had to deal with the kitchen sink too. Fortunately, under the superb leadership of my friend, JERRY LEWIS, H.R. 3666 works hard for the citizens of our country.

Under the bill, veterans can be reassured that VA medical care is a top priority for Congress, increasing this account by 2.7 percent over last year. And for the first time ever, health benefits will be provided to children born with spina bifida, if one parent was exposed to agent orange while serving our country.

In addition, H.R. 3666 keeps our commitment to those who need housing assistance. Specifically, the bill provides $39.2 billion for the Department of Housing and Urban Development. This amount includes $4.6 billion for community development grants which continue to help communities across the Nation.

H.R. 3666 also ensures that our missions in space are mean and lean. Funding for NASA is carefully calculated so that every penny can be accounted.

While the kitchen sink may be a useful item in our homes, it can get cumbersome in an appropriations bill. But the chairman and his staff have the skills of excellent plumbers. The health provisions to help newborns and their moms, and provide mental health parity were carefully crafted to provide the maximum benefit to citizens, with limited pressures on businesses. I thank the committee and the leadership for inclusion of these provisions.

On a personal note, I would like to thank the committee staff for their hard work and dedication to finishing this bill on time. I would also like to thank Mr. STOKES and Mr. LEWIS for their help and kind friendship throughout my years in Congress, and especially during my time on this important subcommittee.

Mr. Speaker, I strongly support passage of H.R. 3666, the VA–HUD-independent agencies appropriations bill for fiscal year 1997 and I urge my colleagues to do the same.

Mr. STARK. Mr. Speaker, this appropriations bill includes two important first steps toward improving health care in America—protection for mothers and newborn babies from being forced out of hospitals prematurely and better mental health insurance benefits.

Yet these are the first steps in what needs to be done.

Both amendments have gaping loopholes in them that we will need to fix in the next Congress.

The parity for mental health caps amendment has a potentially gutting amendment offered by the senior Senator from Texas [Mr. GRAMM] which says that the parity in annual or lifetime limits between mental health and physical health need not apply if it causes the cost of the health insurance plan to rise by 1 percent or more. The Congressional Budget Office has estimated that the cap parity amendment should only affect health insurance premiums by about 0.4 percent. A recent Coopers & Lybrand analysis says that the premium impact should not only be about 0.12 percent. But thanks to the Gramm amendment, any employer or insurer who does not want to provide this equity treatment only has to say that it will increase costs by 1 percent or more. You can drive an armored division through that loophole—and I hope the next Congress will repeal the Senator's mischievous amendment.

The mental health cap parity amendment also does not include treatment for drug or alcohol addictions—even though the airwaves are filled with political ads decrying the rising level of drug use. If we were serious about turning Americans away from drug use, we would certainly provide health care services for drug and alcohol addiction—and this should be a priority for the next Congress. I would like to include in the RECORD at this point, a letter from the heads of several of the Nation's major addiction treatment centers—such as the Betty Ford Center—on this point.

SEPTEMBER 16, 1996.

Hon. FORTNEY PETE STARK,
House of Representatives,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN STARK: We are writing to express our grave concern over the mental health parity provision that was included as an amendment to the Senate's HUD–VA Appropriations bill, H.R. 3666. We are shocked that a provision that specifically excludes substance abuse treatment services is being recommended by the leadership in Congress at a time when Republicans and Democrats alike are engaged in a heated national dialogue about addressing our nation's escalating drug problem.

At the Betty Ford Center, the Hazelden Foundation, and the Valley Hope Association, we see first hand the devastation that spiraling alcohol and drug use has on the lives of millions of Americans and their families. We also know the benefit that cost effective treatment has on reducing collateral health care costs, increasing workplace productivity, and reestablishing strong family ties.

We urge you to insist that the leadership drop the language from the HUD–VA bill that excludes substance abuse services from the parity provision. The cost of providing these benefits is a nominal .7% increase in premiums according to an April 12, 1996 study prepared by Milliman and Robertson. At a time when Congress has pledged renewed efforts to address our nation's drug problem, you should not pass legislation that goes entirely in the wrong direction.

Sincerely,

JOHN SCHWARZLOSE,
President, Betty Ford Center.
JERRY SPICER,
President, Hazelden Foundation.
DENNIS GILHOUSEN,
President, Valley Hope Association.

On the new mothers and babies bill, the 48 hours of protection is an important first step. But again, look at the details. The amendment includes language that says nothing in the new law will interfere with a managed care plan's cost-sharing provisions. In other words, a managed care plan could require a two day deductible for maternity stays, thus completely negating this provision. It could require a

$1000 a day copayment for maternity stays, thus making a mockery of this provision for most middle income Americans. There are some plans that are so money-hungry they will probably adjust their cost-sharing arrangements so as to continue to force new mothers out of hospitals before they are ready. I call on the nation's consumer groups to form a database on what the current maternity co-pays and deductibles are in major managed care plans, and publicize any changes in those requirements that are designed to subvert this new law. The spotlight of publicity may be our only real protection against this loophole.

The amendment also drops original language that requires that if a mother and her baby leave the hospital before 48 hours that there be follow-up, at home services. The U.S. General Accounting Office has just released a report entitled, "Appropriate Follow-up Services Critical With Short Hospital Stays." This report clearly shows that we need to revisit this issue next year to provide the kind of care to new babies that a civilized society should provide. As the GAO says

Although the public debate over maternity care has focused on the shortening of the hospital stay after childbirth, the critical issue is whether mothers and newborns are receiving all necessary services. . . .There is evidence that women and newborns are being discharged early without much follow-up care. Even when follow-up care is provided, it is not always delivered in a timely manner by properly trained professionals.

Requiring insurers to either cover hospital stays of 48 hours for vaginal births or cover follow-up care within 72 hours of discharge may be giving the public a false sense of security. Extending hospital stays to 48 hours may provide for more medical surveillance, but it does not include the period when many neonatal problems usually occur—at 3 days of age. Follow-up care can be a safety net to protect mothers and newborns who are discharged early only if the appropriate services are actually provided.

Mr. KLECZKA. Mr. Speaker, I rise today in strong support of the VA/HUD appropriation bill's maternity stay provisions. I am a firm believer in the saying "mother knows best."

On Mothers' Day this year, I introduced the Newborns and Mothers Health Protection Act. Like the VA–HUD provisions, my bill would enable new mothers to receive insurance coverage for a 48-hour hospital stay after normal childbirth, and 96 hours for a Caesarean section.

Like the legislation we consider today, my bill is not Federal intrusion or a Federal mandate. Rather this bill removes a mandate—an insurance company mandate—and replaces it with the common sense idea that in America today mothers should be given the choice to stay in a hospital for more than 24 hours after they give birth.

My bill, like the language included in the VA/HUD bill, returns decisions about this important issue to those who know it best—a mother and her physician.

I introduced my bill after receiving numerous heartfelt letters from mothers in my district who were kicked out of the hospital only 24 hours after giving birth. I am happy to report to those mothers today that Congress listened, and Congress took action, to stop insurance companies who think their bottom line profits are more important than a newborn's health.

While I would have liked more elements of my bill to be included in the VA–HUD language—including coverage of post-delivery treatment—the provision I rise in support of today makes a major improvement in the way this Nation's mothers will be treated in the future.

Mr. Speaker, a birth is a sacred event. We cheapen it, and endanger lives, when we turn its management over to some insurance company official whose eye is only on the bottom line. The maternity stay provisions we approve today will end the discouraging, and demoralizing, practice of putting profits before people. I urge my colleagues to support this bill.

Ms. McCARTHY. Mr. Speaker, I rise again today to express my support of one of our Nation's greatest success stories for our youth, the AmeriCorps Program. While the VA–HUD conference report does not provide the President's full funding request for AmeriCorps, it does appropriate $403 million in fiscal year 1997, an amount equal to the current funding level. This is an enormous improvement over the House-passed bill which eliminated funding for the program entirely.

The mission of AmeriCorps is sensible: provide educational opportunities for young people who serve their community in ways that make a real difference in the lives of others.

In my district, AmeriCorps members have partnered with professionals and nonprofit agencies to help immunize children, revitalize and clean up inner city neighborhoods, install smoke alarms in the homes of the elderly, and weatherize homes in low income areas. On Earth Day this year, I assisted AmeriCorps members with planting a community garden in a vacant lot once strewn with debris. The lot now is a source of neighborhood pride.

AmeriCorps members continually champion the cause of community service by their collective and individual efforts. In my community, members have worked with community police officers to initiate neighborhood watch programs and shut down drug houses. The energy of these young people has inspired many families to get more involved to preserve and protect their neighborhood. As a result, Kansas City is cleaner, safer, and more livable because AmeriCorps has made its mark.

As we work to balance the Federal budget, I believe we must set smart priorities. Certainly providing opportunities which afford young people access to job training and education ought to be among our national goals.

I urge my colleagues to support the funding for the AmeriCorps program included in this conference report.

Ms. ESHOO. Mr. Speaker, the conference report before the House today includes many provisions worthy of support. Funding for the Federal Emergency Management Administration [FEMA] is much better than the House-passed level. The Americorps Program will continue to provide civic minded young women and men the opportunity to help their communities and earn money for their college education. Even the Environmental Protection Agency [EPA], the target of endless Republican attacks, is funded at a level that will allow the agency to fulfill its mission.

In addition, this conference report contains three health-related provisions that deserve the strong support of every Member of the House. The year-long fight to ensure parity for mental health benefits has been successful. New mothers will no longer have to worry about being forced from the hospital by insurance companies placing costs over care. And the children of veterans exposed to agent orange will get the benefits they deserve to help treat spina bifida.

Because of these provisions and the improved funding levels, I will support this conference report; yet I must point out that this report also contains a provision I strongly disagree with and which fails the good public policy test. I am referring to language included by the conferees prohibiting the space agency from consolidating NASA research aircraft from centers east of the Mississippi, leaving only one facility subject to this ill-conceived proposal—NASA-Ames, located in the 14th District of California which I represent.

The numbers are clear. The NASA inspector general's final audit report states that the consolidation plan would mean nonrecurring costs of $11.3 million and annual savings of $218,049, resulting in a payback period of 52 years. If the cost of money—discount rate—is factored in, NASA will never recover its financial investment in aircraft consolidation.

Mr. Speaker, over the past several months I have worked with several of my colleagues, Democrats and Republicans, House and Senate, in opposition to NASA's consolidation plan. As I stand here today, it is only NASA Ames, which lies West of the Mississippi, that remains subject to the consolidation. I want my constituents to know that I continue to believe the consolidation is a bad plan and I will continue to press this case both with the Congress and the administration.

Mr. MOORHEAD. Mr. Speaker, I rise today to bring your attention to an effort in my district to establish a healthy lifestyles and opportunities for wellness in children. This enterprise is being undertaken by the Glendale Adventist Medical Center in a endeavor to establish an Institute for Childrens Health and Wellness. The institute will incorporate existing hospital treatment programs and add educational, clinical, and special family programs along with a comprehensive community outreach.

Good health is essential if children are to benefit fully from their education. At the same time, the education they receive must contribute to helping them to keep healthy. The link between education and health is strong and reciprocal. Prenatal and well baby care, language and speech development, good nutrition, emotional bonding, and the opportunity for age-appropriate cognitive, social, and physical experiences all have a profound impact in shaping a child's readiness to learn and become a healthy adult.

Today, tobacco, alcohol, diets rich in saturated fats and cholesterol, lack of physical exercises, the widespread use of drugs, and other hazards are, unfortunately, not only part of the lifestyle of many adult Americans, but of many teenagers and children as well. Helping children to live a healthy lifestyle in the face of destructive societal behaviors is a challenging task, but one that must be met head on. The savings in terms of human life and dollars will be monumental if children nationwide adopt a healthier lifestyle.

The Institute will serve community children in a wide array of services, touching every aspect of their development. Programs include a Learning Center, Mildly-Ill Care to assist working parents, Drop-In Care, Outpatient Pediatric rehabilitation, mental health services, health education classes, Outpatient Adolescent Recovery Program and extensive community outreach. The focus will not be to merely avoid illness, but rather to prolong life through activities that are designed to continually improve physical and emotional well-being.

We all recognize that children are America's most valuable resource. It is important to our future to give children opportunities for health and more importantly, the tools to learn how to live a healthy lifestyle that continue throughout their life.

It is my hope that the next Congress will want to join in partnership with Glendale Adventist Medical Center and create positive step toward a nation of healthier children. It is also my expectation that other communities across the Nation will undertake a replication of this admirable program. I hope to encourage the Department of Housing and Urban Development to support a proposal funding this initiative.

Mr. BORSKI. Mr. Speaker, I rise today in strong support of H.R. 3666, the conference report on VA-HUD-Independent Agencies Appropriations for fiscal year 1997. I support this bill for many reasons but especially because it includes a provision that requires health insurance companies to cover 48 hours of hospital care for a woman after she gives birth.

Mr. Speaker, my constituent, Mrs. Maureen Drumm is a perfect example of why this practice of drive-through deliveries must be stopped.

On August 31, 1992, Maureen gave birth to her first daughter, Bridget Theresa. Bridget's first twenty-four hours of life were that of a normal, beautiful, healthy baby. However, approximately twenty-hours after Bridget was born, Maureen began to experience severe physical distress. Maureen had developed a uterine infection, her temperature rose quickly to one hundred and four degrees, and she was in danger of lapsing into shock.

Mrs. Drumm's doctors immediately placed her on heavy doses of antibiotics and other intravenously administered medications. But, despite her doctor's best efforts, her fever persisted for 5 days at rates over one hundred degrees.

Although Maureen was quite ill, her greatest pain was not physical. Maureen was suffering mentally for her newborn daughter, Bridget. Approximately 48 hours after Bridget was born, she was moved to the intensive care unit. In a matter of hours, Bridget's bilirubin level—the yellow-brown bile pigment in the blood—had jumped from a normal level of 11 to a dangerous level of 19. Bilirubin levels in the twenties can cause bilirubin encephalopathy—a condition which causes permanent brain and nervous system damage. Bilirubin levels of over twenty-two require transfusions which replace all of the blood in the baby's body. Bridget Theresa was in great danger.

In time, Maureen's fever and Bridget's jaundice subsided because they were given high quality medical treatment and an adequate length of stay in the hospital. However, if they had been forced to leave twenty-four hours after Maureen gave birth—they would not have been so lucky. Mr. Speaker, forcing women and their newborn babies out of the hospital after 24 hours is cruel, barbaric, and extremely dangerous. If this policy of mandating "drive-through deliveries" was in effect in 1992, Bridget Theresa could be mentally retarded and Maureen could have died.

As you can imagine, Mr. Speaker, when Maureen became pregnant with her second child, she was quite nervous. Mrs. Drumm had learned that since her first delivery, her insurance company adopted a policy which required mothers and newborns be discharged from the hospital 24 hours after a "normal delivery." Well, Maureen did have a "normal delivery" with her first daughter Bridget Theresa. It was only after the first 24 hours that their conditions became obvious.

On July 26, 1995, Mrs. Drumm testified in front of the Pennsylvania House of Representatives Democratic Policy Committee. The next day Maureen received a phone call from Blue Cross/Blue Shield and was informed that because of her testimony, she would be pre-approved for a 48-hour stay in the hospital after giving birth. On August 3, 1995, Blue Cross/Blue Shield of Philadelphia changed their policy to "Mother's Option"—which is 24 hours in the hospital and two home health care visits or 48 hours in the hospital.

On August 6, 1995, Maureen gave birth to her second child—a beautiful, healthy baby girl—Maura Elizabeth. Maura also had an elevated bilirubin level on her second day of life and was given immediate treatment. Since Maureen and Maura were able to stay a second day in the hospital, Maureen was well rested and able to care for Maura's jaundice at home over the course of the next few days. Today, both of Maureen's daughters are growing beautifully.

Mr. Speaker, since Maura's birth, Pennsylvania has joined a number of other States in making the option of a 48-hour hospital stay law. Now, we need to make it a Federal law.

Mr. Speaker, Maureen Drumm's efforts in educating us all in this dangerous "drive-through delivery" practice should be commended. Maureen Drumm not only won a battle for herself, but for millions of women across this country. Although, many people would have been satisfied with being granted an extra day in the hospital for themselves, Maureen didn't stop there. Through many trips to Washington and many meetings with both Representatives and Senators, she has focused national attention on this issue, and has been a true leader in this fight for the rights of newborns and their mothers. Maureen Drumm has proven that one person really can make a difference. I congratulate Maureen Drumm and urge you to do the same by passing this important and vital legislation.

Mr. ORTON. Mr. Speaker, with the passage of the VA/HUD appropriations bill in the House and Senate and expected approval by the President, I am very pleased to note the enactment into law of important FHA reforms, which will improve and enhance the program.

The first reform is the elimination of the current prohibition against parental loans in conjunction with FHA mortgages. In spite of the fact that parental financial assistance plays an important role in meeting down payment requirements and promoting homeownership, current FHA rules do not permit parents to lend money to their children for this purpose. This prohibition is antihomeownership and antifamily. I am pleased to see Congress adopt my proposal and allow parental loans, on either a secured or unsecured basis, for this purpose.

The second reform would allow direct endorsement lenders to issue their own mortgage certificates. This will lower costs for lenders and for FHA which can be passed along to borrowers in the form of lower premiums and lower loan costs. Since direct endorsement lenders are already given underwriting authority, this change will not negatively affect the quality of loans approved. This proposal was adopted 2 years ago in the House, and was included in my FHA reform bill introduced at the beginning of this Congress.

The third reform is the establishment of an FHA down payment simplification proposal on a demonstration basis in Alaska and Hawaii. This proposal is based on my down payment proposal which was adopted in the Banking Committee in 1994. Virtually everyone who uses FHA acknowledges that the current down payment calculation is unnessarily complex. This proposal would greatly simplify the process for borrowers, lenders, and realtors.

I am disappointed that the Senate prevailed over the House on this issue, scaling back nationwide application to a demonstration project. However, I am pleased that Congress has finally acknowledged that we ought to take action on this issue. My hope is that next year, we can expand this demonstration status to the entire Nation and make it permanent.

And, I would like to acknowledge the efforts and leadership of Representative WELLER's amendment to codify the lowering of the FHA premium from 2.25 percent to 2 percent for first-time home buyers who receive homeownership counseling. This continues a trend over the last 4 years of lowering FHA premiums, as a result of lowered FHA loss rates and reductions in administrative costs.

These legislative changes represent a great achievement, in light of the fact that it now appears that no comprehensive housing legislation will be enacted this Congress.

The passage of these provisions is especially noteworthy, in light of the great number of House Members who are opposed to FHA. Early last year, legislation was introduced which would have effectively eliminated FHA. This legislation was supported by 60 House Members including many in leadership positions, such as Majority Leader DICK ARMEY and Majority Whip TOM DELAY. A companion bill was introduced in the Senate.

Not only were FHA proponents able to repel this effort to destroy FHA, but we were able to improve the program through much-needed reforms. These reforms are critically important in my home State of Utah and throughout the country. A recent Fannie Mae study cited the required downpayment as the No. 1 impediment to home ownership in this country. FHA, with its low downpayment provisions, is the most effective and widely available mortgage tool used to help young families and individuals overcome that downpayment hurdle. And, it does so at no cost to the taxpayer.

In fact, a recent GAO study showed that 77 percent of first-time home buyers who used FHA loans in 1995 would not have qualified for a loan without FHA. In my home State of Utah, 68 percent of first-time home buyers use FHA. Thus, in Utah, over half of first-time home buyers would not be able to enter the housing market without FHA.

These statistics clearly show the folly of proposals to end or privatize FHA. They also show how critical it is to continue to improve and modernize the program.

Therefore, it is my hope that next year, we can finish the job we started back in the 103d Congress. Specifically, we should extend the demonstration downpayment simplification proposal to nationwide status, raise the national FHA loan floor to 50 percent of the Fannie Mae/Freddie Mac limit, allow the use of two-step mortgages, and eliminate the outdated 90 percent loan-to-value limitation on new construction.

In closing, I would like to thank House and Senate conferees for preserving these important FHA reforms in the final conference report, and look forward to their implementation.

Mr. STUMP. Mr. Speaker, I rise in opposition to the conference report on H.R. 3666, the VA, HUD and independent agencies appropriations bill for fiscal year 1997.

As chairman of the Veterans' Affairs Committee, I am deeply dissatisfied with the way the conference report treats the veterans' portion of the bill.

The conference report switches priorities approved by the House.

The result, veterans lose out to nonveteran programs.

I strongly object to the conference report boosting programs for EPA, NASA, and Americorps at the expense of veterans.

The conference report drops VA medical care $55 million below the House, inadequately funds VA medical research $15 million below the House, and skims $13 million off the House on resources necessary for timely processing of veterans service connected benefit claims.

The conference report bumps up EPA by $140 million above the House, NASA $100 million above the House, FEMA $197 million above the House, and gives $400 million to "paid volunteers" and bureaucrats at Americorps, which the House had zero funded.

Mr. Chairman, the overall story is unfortunately a weakening of the House-passed priorities for veterans' programs.

Additionally, it is inappropriate for legislative amendments to find their way into appropriations measures.

While I would not necessarily disagree with all the attached legislative amendments had they been properly before the Veterans' Affairs Committee, I strongly object to their presence in the appropriations bill conference report.

The conference report creates an unprecedented benefits entitlement for children with spina bifida, on the basis of what can at best only be called questionable scientific foundation.

Worse than that is the way it has been paid for.

The appropriations bill reverses the Supreme Court's Gardner decision.

This is not simply an offset.

It is legislative savings that should be controlled by the Veterans' Affairs Committee, and it is more than what is needed to pay for the new entitlement.

Thus the VA Committee loses control over $500 million.

That's the difference between the costs of this brand-new entitlement and savings from repeal of Gardner.

It's the price for rushing these provisions through the appropriations process instead of the committee of jurisdiction.

The appropriations bill strips the House Veterans' Affairs Committee of our plan to achieve significant savings without hurting higher priority veterans' programs, and denies veterans the potential of using that $500 million for other benefits improvements for service-connected veterans.

Frankly, we should be able to do better for these men and women who served us in uniform.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays, 25, not voting 20, as follows:

[Roll No. 426]

YEAS—388

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schumer
Scott
Seastrand
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—25

Bachus
Coburn
Cooley
Cox
DeLay
Doolittle
Duncan
Ehrlich
Geren
Hall (TX)
Hancock
Hoekstra
Istook
Johnson, Sam
Largent
Minge
Neumann
Petri
Roemer
Sanford
Scarborough
Sensenbrenner
Shadegg
Stump
Walker

NOT VOTING—20

Bunn	Heineman	Rangel
Durbin	Jacobs	Schroeder
Funderburk	Lincoln	Studds
Gephardt	Oxley	Wicker
Gibbons	Parker	Williams
Goodling	Payne (VA)	Wilson
Hayes	Peterson (FL)	

□ 2042

Mr. BACHUS and Mr. HALL of Texas changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 5 of rule I, the pending business is the question on agreeing to the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule I, the Journal stands approved.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4134, AUTHORIZING STATES TO DENY PUBLIC EDUCATION BENEFITS TO CERTAIN ALIENS NOT LAWFULLY IN THE UNITED STATES

Mr. McINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–834) on the resolution (H. Res. 530) providing for consideration of the bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997, which was referred to the House Calendar and ordered to be printed.

PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rule and passing the bill, H.R. 3452, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. HORN] that the House suspend the rules and pass the bill, H.R. 3452, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 410, nays 5, not voting 18, as follows:

[Roll No. 427]

YEAS—410

Abercrombie	DeLay	Hyde
Ackerman	Dellums	Inglis
Allard	Deutsch	Istook
Andrews	Diaz-Balart	Jackson (IL)
Archer	Dickey	Jackson-Lee (TX)
Armey	Dicks	Jefferson
Bachus	Dingell	Johnson (CT)
Baesler	Dixon	Johnson (SD)
Baker (CA)	Doggett	Johnson, Sam
Baker (LA)	Dooley	Johnston
Baldacci	Doolittle	Jones
Ballenger	Dornan	Kanjorski
Barcia	Doyle	Kaptur
Barr	Dreier	Kasich
Barrett (NE)	Duncan	Kelly
Barrett (WI)	Dunn	Kennedy (MA)
Bartlett	Edwards	Kennedy (RI)
Barton	Ehlers	Kennelly
Bass	Ehrlich	Kildee
Bateman	Engel	Kim
Becerra	English	King
Beilenson	Ensign	Kingston
Bentsen	Eshoo	Kleczka
Bereuter	Evans	Klink
Berman	Everett	Klug
Bevill	Ewing	Knollenberg
Bilbray	Farr	Kolbe
Bilirakis	Fattah	LaFalce
Bishop	Fawell	LaHood
Bliley	Fazio	Lantos
Blumenauer	Fields (LA)	Largent
Blute	Fields (TX)	Latham
Boehlert	Filner	LaTourette
Boehner	Flake	Laughlin
Bonilla	Flanagan	Lazio
Bonior	Foglietta	Leach
Bono	Foley	Levin
Borski	Forbes	Lewis (CA)
Boucher	Ford	Lewis (GA)
Brewster	Fowler	Lewis (KY)
Browder	Fox	Lightfoot
Brown (CA)	Frank (MA)	Linder
Brown (FL)	Franks (CT)	Lipinski
Brown (OH)	Franks (NJ)	Livingston
Brownback	Frelinghuysen	LoBiondo
Bryant (TN)	Frisa	Lofgren
Bryant (TX)	Frost	Longley
Bunning	Furse	Lowey
Burr	Gallegly	Lucas
Burton	Ganske	Luther
Buyer	Gejdenson	Maloney
Callahan	Gekas	Manton
Calvert	Geren	Manzullo
Camp	Gilchrest	Markey
Campbell	Gillmor	Martinez
Canady	Gilman	Martini
Cardin	Gonzalez	Mascara
Castle	Goodlatte	Matsui
Chabot	Goodling	McCarthy
Chambliss	Gordon	McCollum
Chapman	Goss	McCrery
Chenoweth	Graham	McDade
Christensen	Green (TX)	McDermott
Chrysler	Greene (UT)	McHale
Clay	Greenwood	McHugh
Clayton	Gunderson	McInnis
Clement	Gutierrez	McIntosh
Clinger	Gutknecht	McKeon
Coble	Hall (OH)	McKinney
Coburn	Hall (TX)	McNulty
Coleman	Hamilton	Meehan
Collins (GA)	Hancock	Meek
Collins (IL)	Hansen	Menendez
Collins (MI)	Harman	Metcalf
Combest	Hastert	Meyers
Condit	Hastings (FL)	Mica
Conyers	Hastings (WA)	Millender-McDonald
Cooley	Hayworth	Miller (CA)
Costello	Hefley	Miller (FL)
Coyne	Hefner	Minge
Cramer	Herger	Mink
Crane	Hilleary	Moakley
Crapo	Hinchey	Molinari
Cremeans	Hobson	Mollohan
Cubin	Hoekstra	Montgomery
Cummings	Hoke	Moorhead
Cunningham	Holden	Moran
Danner	Horn	Morella
Davis	Hostettler	Murtha
de la Garza	Houghton	Myers
Deal	Hoyer	Myrick
DeFazio	Hunter	Nadler
DeLauro	Hutchinson	Neal
		Nethercutt
		Neumann
		Ney
		Norwood
		Nussle
		Oberstar
		Obey
		Olver
		Ortiz
		Orton
		Owens
		Packard
		Pallone
		Parker
		Pastor
		Paxon
		Payne (NJ)
		Pelosi
		Peterson (MN)
		Petri
		Pickett
		Pombo
		Pomeroy
		Porter
		Portman
		Poshard
		Pryce
		Quillen
		Quinn
		Radanovich
		Rahall
		Ramstad
		Reed
		Regula
		Richardson
		Riggs
		Rivers
		Roberts
		Roemer
		Rogers
		Rohrabacher
		Ros-Lehtinen
		Rose
		Roth
		Roukema
		Roybal-Allard
		Royce
		Rush
		Sabo
		Salmon
		Sanders
		Sanford
		Sawyer
		Saxton
		Scarborough
		Schaefer
		Schiff
		Schumer
		Scott
		Seastrand
		Sensenbrenner
		Serrano
		Shadegg
		Shaw
		Shays
		Shuster
		Sisisky
		Skaggs
		Skeen
		Skelton
		Slaughter
		Smith (MI)
		Smith (NJ)
		Smith (TX)
		Smith (WA)
		Solomon
		Souder
		Spence
		Spratt
		Stark
		Stearns
		Stenholm
		Stockman
		Stokes
		Stump
		Stupak
		Talent
		Tanner
		Tate
		Tauzin
		Taylor (MS)
		Taylor (NC)
		Tejeda
		Thomas
		Thompson
		Thornberry
		Thornton
		Thurman
		Tiahrt
		Torkildsen
		Torres
		Torricelli
		Towns
		Traficant
		Upton
		Velazquez
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walker
		Walsh
		Wamp
		Ward
		Waters
		Watts (OK)
		Waxman
		Weldon (FL)
		Weldon (PA)
		Weller
		White
		Whitfield
		Wise
		Wolf
		Woolsey
		Wynn
		Yates
		Young (AK)
		Young (FL)
		Zeliff
		Zimmer

NAYS—5

Clyburn	Hilliard	Watt (NC)
Cox	Johnson, E. B.	

NOT VOTING—18

Bunn	Heineman	Rangel
Durbin	Jacobs	Schroeder
Funderburk	Lincoln	Studds
Gephardt	Oxley	Wicker
Gibbons	Payne (VA)	Williams
Hayes	Peterson (FL)	Wilson

□ 2100

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FUNDERBURK. Mr. Speaker, on Tuesday, September 24, 1996 I was unavoidably detained and missed several votes. Had I been present, I would have recorded my vote as follows:

Rollcall vote number 426 on agreeing to the VA/HUD conference report—I would have voted "aye."

Rollcall vote number 427 on agreeing to H.R. 3452, the Presidential and Executive Office Accountability Act—I would have voted "aye."

Rollcall vote number 425 on agreeing to House Resolution 525 providing expedited procedures for the remainder of the second session of the 104th Congress—I would have voted "aye."

APPOINTMENT OF ADDITIONAL CONFEREES ON H.R. 3539, FEDERAL AVIATION AUTHORIZATION ACT OF 1996

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Chair appoints the following additional conferees from the Committee on Ways and Means for the consideration of section 501 of the bill, H.R. 3539, and sections 417, 906 and 1001 of the Senate amendment and modifications committed to conference: Messrs. ARCHER, CRANE, and GIBBONS.

There was no objection.

PRIVILEGES OF THE HOUSE—RESOLUTION REQUIRING THAT INVESTIGATION INTO MATTERS SURROUNDING COMPLAINT ON REPRESENTATIVE RICHARD GEPHARDT BE ASSIGNED TO SPECIAL COUNSEL

Mr. LINDER. Mr. Speaker, earlier in this day I served notice that I would ask the House to consider a question of privilege under rule IX. I respectfully request that that resolution be brought to the floor right now.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 531

Whereas, a complaint filed against Representative Gephardt alleges House Rules have been violated by Representative Gephardt's concealment of profits gained through a complex series of real estate tax exchanges and;

Whereas, the complaint also alleges possible violations of banking disclosure and campaign finance laws or regulations and;

Whereas, the Committee on Standards of Official Conduct has in other complex matters involving complaints hired outside counsel with expertise in tax laws and regulations and;

Whereas, the Committee on Standards of Official Conduct is responsible for determining whether Representative Gephardt's financial transactions violated standards of conduct or specific rules of the House of Representatives and;

Whereas, the complaint against Representative Gephardt has been pending before the committee for more than seven months and the integrity of the ethics process and the manner in which Members are disciplined is called into question; and

Whereas, on Friday, September 20, 1996 the ranking Democrat of the Ethics Committee, Representative James McDermott in a public statement suggested that cases pending before the committee in excess of 60 days be referred to an outside counsel; now be it

Resolved that the committee on Standards of Official Conduct is authorized and directed to hire a special counsel to assist in the investigation of the charges filed against the Democrat Leader Representative Richard Gephardt.

Resolved that all relevant materials presented to, or developed by, the committee to date on the complaint be submitted to a special counsel, for review and recommendation to determine whether the committee should proceed to a preliminary inquiry.

The SPEAKER pro tempore. The resolution constitutes a question of privileges of the House.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolution on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARMEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 390, noes 11, answered "present" 7, not voting 25, as follows:

[Roll No. 428]

AYES—390

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—11

Doyle
Holden
Kanjorski
Klug
McDermott
McHale
Minge
Peterson (MN)
Quinn
Taylor (MS)
Walsh

ANSWERED "PRESENT"—7

Borski
Cardin
Goss
Hobson
Pelosi
Sawyer
Schiff

NOT VOTING—25

Boucher
Bunn
Cooley
de la Garza
Durbin
Flake
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Jacobs
Lincoln
Martinez
Ortiz
Oxley
Payne (VA)
Peterson (FL)
Rangel
Schroeder
Studds
Tejeda
Torres
Williams
Wilson

□ 2121

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Speaker, on rollcall No. 428, I mistakenly voted "aye". I intended to vote "present."

PRIVILEGES OF THE HOUSE—CALLING FOR RELEASE OF OUTSIDE COUNSEL'S REPORT ON SPEAKER GINGRICH

Mr. LEWIS of Georgia. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a resolution pursuant to clause 2 of rule IX.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 532

Whereas on December 6, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, non-partisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgement concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives;

Therefore be it resolved that

The Committee on Standards of Official Conduct shall release to the public the outside counsel's report on Speaker Newt Gingrich—including any conclusions, recommendations, attachments, exhibits or accompanying material—no later than Wednesday, September 25, 1996.

The SPEAKER pro tempore (Mr. LAHOOD). The resolution constitutes a question of the privileges of the House.

MOTION TO TABLE OFFERED BY MR. ARMEY

Mr. ARMEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ARMEY moves to lay the resolutions on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 225, noes 173, answered "present" 9, not voting 26, as follows:

[Roll No. 429]

AYES—225

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Greene (UT)
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—173

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Blumenauer
Bonior
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Cummings
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—9

Borski
Cardin
Goss
Hobson
Johnson (CT)
Pelosi
Sawyer
Schiff
Traficant

NOT VOTING—26

Berman
Boucher
Bunn
Cooley
de la Garza
Durbin
Flake
Funderburk
Gephardt
Gibbons
Hayes
Heineman
Jacobs
Lincoln
Martinez
Neal
Oxley
Payne (VA)
Peterson (FL)
Rangel
Schroeder
Studds
Torres
Waxman
Williams
Wilson

□ 2141

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. OXLEY. Mr. Speaker, on Tuesday September 24, 1996, I was unavoidably absent from the House Chamber during rollcall vote Nos. 425 to 429. Had I been present, I would have voted "yea" in all cases.

ANNOUNCEMENT OF LEGISLATION TO BE CONSIDERED UNDER SUSPENSION OF RULES ON WEDNESDAY, SEPTEMBER 25, 1996

Mr. GOSS. Mr. Speaker, pursuant to the rule adopted earlier today, I am announcing the following suspensions for Wednesday, September 25:

H.R. 3852, Comprehensive Methamphetamine Control Act of 1966;

H.R. 1499, Telemarketing Fraud Punishment and Prevention Act;

H.R. 3456, Sexual Offender Tracking and Identification Act of 1996;

H.R. 4137, Rohypnol; an unnumbered House resolution on the Government Accountability Act;

H.R. 2092, Private Security Officer Quality Assurance Act of 1995;

S. 919, Child Abuse Prevention and Treatment Act Amendments of 1995;

H.R. 1186, Professional Boxing Safety Act;

H.R. 3391, Leaking Underground Storage Tank Trust Fund Amendments;

H.R. 3700, Internet Election Information Act of 1996;

S. 1970, National Museum of the American Indian Act Amendments of 1996;

H.R. 4011, Congressional Pension Forfeiture Act of 1996;

S. 868, Federal Employees Emergency Leave Transfer Act of 1995;

H. Con. Res. 145, Concerning the Removal of Russian Forces from Moldova;

H. Con. Res. 189, Expressing Sense of Congress Regarding the Importance of U.S. Membership in Regional South Pacific Organizations;

H. Con. Res. 51, Expressing Sense of Congress Relating to the Removal of Russian Troops from Kaliningrad;

H.R. 4036, Human Rights Restoration Act of 1996;

H.R. 3497, Snoqualmie National Forest Boundary Adjustment Act of 1996;

H.R. 3155, Designating the Wekiva River for Study and Possible Addition to the National Wild and Scenic Rivers System;

H.R. 3568, Designating 51.7 miles of the Clarion River as a component of the National Wild and Scenic Rivers System;

S. 1834, Reauthorizing the Indian Environmental General Assistance Program; and

H.R. 3159, National Transportation Safety Board Amendments of 1996.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. LEWIS of Georgia. Mr. Speaker, pursuant to clause 2 of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas on December 16, 1995, the Committee on Standards of Official Conduct agreed to appoint an outside counsel to conduct an independent, nonpartisan investigation of allegations of ethical misconduct by Speaker Newt Gingrich;

Whereas, after an eight-month investigation, that outside counsel has submitted an extensive document containing the results of his inquiry;

Whereas the report of the outside counsel cost the taxpayers $500,000;

Whereas the public has a right—and Members of Congress have a responsibility—to examine the work of the outside counsel and reach an independent judgment concerning the merits of the charges against the Speaker;

Whereas these charges have been before the Ethics Committee for more than two years;

Whereas a failure of the Committee to release the outside counsel's report before the adjournment of the 104th Congress will seriously undermine the credibility of the Ethics Committee and the integrity of the House of Representatives;

Therefore be it resolved that: The Committee on Standards of Official Conduct shall release to the public the outside counsel's report on Speaker Newt Gingrich, including any conclusions, recommendations, attachments, exhibits or accompanying material—no later than Thursday, September 26, 1996.

The SPEAKER pro tempore (Mr. ROTH). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designated by the Chair in the legislative sch3dule within 2 legislative days. The Chair will announce that designation at a later time.

A determination as to whether the resolution constitutes a question of privilege will be made at a later time.

□ 2145

ORDER OF BUSINESS

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the special order of the gentleman from California [Mr. DREIER], which is addressed to the same subject as mine, be allowed to follow mine immediately thereafter.

The SPEAKER pro tempore (Mr. ROTH). Is there objection to the request of the gentleman from California?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO CARLOS J. MOORHEAD AND ANTHONY C. BEILENSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, the gentleman from California [Mr. DREIER] and I both want to say a few words about two of our retiring Members. At this late date in the session, it is becoming increasingly difficult to find the time to do that. So we are going to do our best, with each of us taking 5 minutes, to recognize the two distinguished senior Members of the California delegation who are retiring.

I want to take this opportunity to focus attention on the public service of Congressman CARLOS MOORHEAD and Congressman TONY BEILENSON. They have both served the Nation and the State of California and Congress for over two decades. They will both be very greatly missed.

TONY and CARLOS represent a special type of Member who is willing to work with colleagues of any political persuasion in order to get good things done here in the Congress. Each has weathered some criticism within their respective political parties for this tendency toward supporting good government. But it is that special approach to government that has earned them the affection of their colleagues and their constituents, and, of course, the great respect of those colleagues and constituents.

Congressman MOORHEAD came to Congress at the start of the 93d Congress in 1973 after serving in the California Assembly for 6 years. CARLOS has been a strong voice on the Commerce and Judiciary Committees from the Southern California region and has been an effective advocate for our entertainment industry in both of these committees. But CARLOS has been best known as a leader within the delegation who, as dean of the Republican delegation, has been willing to work with anyone on issues of importance to the State of California.

As chairman of the California Democratic Congressional delegation, it has been a joy for me to work with CARLOS on those issues where we can toss aside our party labels and simply become advocates for what is best for California.

Congressman BEILENSON came to Congress after 14 years in the California State Assembly and Senate, starting with the 95th Congress in 1977. TONY has been a strong voice for principle and reason in an institution that at times at least seems to lack both qualities.

As a member of the Committee on Rules, he has had the opportunity to show all of us how important those qualities are in the day-to-day operations of the Congress. Many times when I have been faced with tough fights involving institutional reform, it has been reassuring to look up at the Committee on Rules and to see TONY sitting on the dais. If nothing else, I knew that he would give me a fair hearing on my ideas.

Both CARLOS and TONY have been friends and colleagues of mine for

much longer than two decades. I have enjoyed working with both of them, and I will miss them. But as one who has at times contemplated leaving this institution, I understand their desire to move on to a simpler lifestyle. This is a greatly changed institution from the one that they entered in the 1970's, and I am not referring to the changes that took place 2 years ago. This is an institution that has trouble rewarding the independent-minded person who struggles to represent their constituents as they see best, not as some committee chair or party leader feels would be best.

There are fewer people like CARLOS and TONY today, and tomorrow and in the next session of Congress there will be two fewer, and we will all be lessened by that. CARLOS and TONY, I wish you well, and thank you for your service on behalf of California.

Mr. Speaker, at this time I would like to yield to my good friend, the gentleman from California, Mr. DREIER.

FURTHER TRIBUTE TO CARLOS J. MOORHEAD AND ANTHONY C. BEILENSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I thank my friend, the gentleman from California [Mr. BROWN], for taking the time for this special order. I would like to congratulate my California colleague, the dean of the entire delegation, because he has served here longer than any other Member and I think longer than any Californian has served in the Congress. I appreciate his taking out this time to talk about our colleagues.

Mr. Speaker, I would like to offer just a little glimmer of hope with the spirit that both TONY BEILENSON and CARLOS MOORHEAD have embodied with their service here, that being that our colleagues, Messrs. LAHOOD and SKAGGS have led an effort, of which I am proud to be a part, that will see us in the 105th Congress, God and the voters willing, a number of us will be here to participate in that, we will be holding a bipartisan retreat for the first time ever.

I think there has been recognition that the work that TONY BEILENSON and CARLOS MOORHEAD and a number of others who have chosen to retire have done over the years, that that spirit of bipartisanship, when it is possible, should continue.

Mr. Speaker, the point that I would make is that these two individuals have done so much to try and deal responsibly with legislation, not in any way compromising their principle, but, in fact, as our former minority leader Bob Michel used to enjoy saying, you should never compromise your principles, but you should always be prepared to compromise for principle. I think the Moorhead-Beilenson spirit is very important, and I am confident that while we will have two fewer Members here because of their absence, that the spirit will be carried forth into the 105th Congress. A number of us I know are working on that.

Mr. Speaker, I yield to my friend from California, Mr. BROWN.

Mr. BROWN of California. Mr. Speaker, I appreciate the gentleman yielding to comment on the point he just made. I appreciate the fact that there are persons like himself and Mr. SKAGGS and Mr. LAHOOD who are making an effort to see if we can improve in the next Congress.

We have been through some bitter fights. There is always, of course, a need for a sharp clash of ideas, but there is also the need for collegiality and cooperation when we do share common goals. What we do need to achieve and what you are seeking to achieve, I think, is that proper balance between the clash of ideas that is so necessary in a democracy and the desire to cooperate, which is necessary to implement those ideas when we finally reach agreement on them.

Mr. DREIER. Absolutely. That clash of ideas is going to continue, but the debate can take place. I remember we often point back to Speaker O'Neill and Ronald Reagan, who said that at 6 o'clock in the evening, when the workday comes to an end, and we know it does not come to an end at 6 o'clock at all times, but there are after-hour times when people should have the chance to get together and get to know each other so the tension level can in fact be reduced. I hope we will be able to successfully do that in the 105th Congress.

Mr. Speaker, I should say I have had the privilege of serving, as I know my friend has, with these two great individuals. CARLOS MOORHEAD has served as dean of the California Congressional delegation on the Republican side for I believe longer than anyone. It was 1982 as I began my second term here that CARLOS became the dean of our delegation, and he has provided terrific leadership.

When it has come to California issues, CARLOS has constantly stood up to do everything possible to address the needs of our State. One of the least attractive, but most important areas, has been the one which my friend Mr. BROWN mentioned, that being the issue of intellectual property and job creation.

In California, as we have shifted from a defense and aerospace-based economy to an export-based economy with the proliferation of the high-tech-biotech industries and, of course, the entertainment industry, CARLOS MOORHEAD has been on the cutting edge, making sure that we have an opportunity to get our goods and services into other parts of the world.

When it has come to patent and trademark work, which is so important to that, CARLOS has led the charge, and we are hoping very much he is about going to be able in the waning days of the 104th Congress to continue his work on that with very important legislation.

I should say he has always been a great friend and traveling companion, and I have had the privilege of sharing the representation of the City of Pasadena during this decade of the 1990's with him. I know my friend Mr. BROWN has a particular interest in the Jet Propulsion Lab, which is technically in CARLOS MOORHEAD's district, but I am privileged to represent many of those who work at the Jet Propulsion Lab.

CARLOS is a Californian, a native of Glendale, a graduate of Hoover High School in Glendale, one who loves our State and one who has chosen to retire to California when he leaves. He and Val will be sorely missed, and I will miss the very levelheaded advice he has given this very enthusiastic guy on more than a couple of occasions.

Mr. Speaker, I have had the privilege of sitting with TONY BEILENSON up in the Committee on Rules. TONY has been an independent voice in the Committee on Rules, and independence is not something that is always sought in the Committee on Rules, but TONY has offered it. He has been extraordinarily thoughtful when it has come to fairness and deliberation, and I have appreciated the advice that he has provided me and the friendship that he has offered. He and Delores have also been terrific people to travel with and to go from Los Angeles to Dulles with on more than a couple of occasions.

TONY is a native of New York, but has been in California for a long period of time, as my friend said, and served there for many years.

□ 2200

He will be missed. And I should say that I hope that our colleagues will take advantage of a chance to add remarks into the RECORD as they see fit, and I am happy to yield to my friend.

Mr. BROWN of California. I thank the gentleman. The gentleman reminds me of an almost forgotten anecdote about when TONY was first appointed to the Committee on Rules. I was consulted then as a senior member of the delegation by the leadership, and asked my views as to what TONY's position might be, the implication being, will he follow the leadership? And I remember saying probably not, but he will do the right thing when he is on the Committee on Rules.

Mr. DREIER. That is a terrific story.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks for the RECORD on this special order that the gentleman from California, Mr. BROWN, and I have held here.

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

There was no objection.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1996

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. HALL] is recognized for 5 minutes.

Mr. HALL of Texas. Mr. Speaker, I rise today to introduce the Assisted Suicide Funding Restriction Act of 1996. It is a bill that will safeguard our Nation against the use of Federal tax dollars to subsidize or promote the practice of assisted suicide.

Now, this bill is the product of a bipartisan effort—we have over 100 signatures, and no one has turned me down as a cosponsor, we just have not had the time to get around to every office—with supporters from both sides of the aisle, and overwhelming support from the public.

This legislation is needed, Mr. Speaker, in light of recent court actions. Assisted suicide, or "aiding, abetting or encouraging the suicide of another," is a criminal offense in 40 States. Yet two Federal appeals courts, the 9th Circuit Court of Appeals and the 2d Circuit Court of Appeals, have ruled assisted suicide is a constitutional right. One State has already chosen to actually legalize assisted suicide, and while that law has not taken effect in that State yet, the 9th Circuit Court could reinstate it any day, and that State's Medicaid director has publicly stated that Medicaid, which is a Federal program funded by Federal tax dollars, will pay for assisted suicide.

Unless the Supreme Court disagrees with these opinions, physician-assisted suicide could become a legal and a routine practice throughout our country. Taxpayers could be funding assisted suicides, no matter how strong their conscientious objections were and how much they objected to the practice itself.

Polling shows us that a majority of Americans, 83 percent, oppose assisted suicide. This legislation will preempt the use of taxpayer dollars by preventing programs such ad Medicaid, Medicare, Indian health care, the military health care system, the Federal employees benefits plans and other Federal programs from paying for assisted suicide, euthanasia or mercy killing of an individual.

This bill does not affect the patient's right to reject or to discontinue medical treatment. It respects the wishes of the patient and it respects the sanctity of the doctor-patient relationship. It does not affect recognized modes of pain relief. Doctors will be able to continue to administer pain medication in any dose necessary to control pain. This bill permits full funding of this type of relief and any other type of medically recognized comfort or pain care that does not assist in the killing of patients.

The sum, Mr. Speaker, this legislation has the modest goal of keeping the Federal Government out of the business of euthanasia and out of the business of using taxpayer money for assisted suicide. I urge my colleagues to give their support to this bill, the Assisted Suicide Funding Restriction Act of 1996.

FLORIDA'S WINTER FRUIT AND VEGETABLE FARMERS FACE GRAVE SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, this morning in Lake Worth, FL, the Subcommittee on Risk Management and Specialty Crops held an important field hearing regarding Florida's winter fruit and vegetable industry. I commend our colleagues, the gentleman from Florida, MARK FOLEY, and the gentleman from Illinois, TOM EWING, for making this effort.

Although I was not able to be there myself, I want to share the feedback that my staff who were there got, because it definitely matches the information from the recent meetings we have been having in my own southwest Florida district, and that information is not good.

The situation on the ground in Florida for these farmers is grave. Bankruptcy, in fact, looms for many, many of whom have been in farming families, growing winter vegetables and fruits in Florida, for literally generations. Planted acreage numbers are declining and they are declining rapidly. In some places we understand the contraction of the industry this year has been as much as 30 percent. That is a giant impact and it is a negative one.

We have also heard from local bankers in my district who, despite longstanding relationships with the farming community, today just simply have to say "no" to new loans because the risks are too high for them.

In the long term there are legislative steps this Congress can take, such as country-of-origin labeling laws, we know about and have been working on to assist our growers' in the transition to what we call a post-NAFTA trade system. In fact, the House has already taken action to relieve some farmers of unnecessary burdens by modernizing pesticide regulation, by voting for commonsense regulatory reform and doing things like that.

But the farmers face more immediate problems, a situation that I think now clearly calls for decisive action by the executive branch within the existing authority that it has to provide immediate assistance for our farmers.

Prior to the passage of NAFTA, I well recall the Clinton White House made a lot of promises to the Florida delegation and to the fruit and vegetable industry in our area, and today the Florida growers need the administration to take action to halt the potentially unfair Mexican trading practices we are seeing; to get full enforcement of NAFTA and its side agreements; to utilize existing mechanisms, notably section 316 of NAFTA, to consult with their Mexican counterparts; and to simply give growers a chance to compete on a level playing field. They think they can win competitively, and so do I, if they have a level playing field.

So we are looking to the administration for help. We only hope the White House will honor the pledge they made to these hard-working Americans and give them a chance to prove that they can do the job in a fair field.

Mr. MILLER OF Florida. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to my friend and colleague from the west coast of Florida, DAN MILLER, who knows this problem as well as I do and is working just as hard to bring a satisfactory conclusion.

Mr. MILLER OF Florida. Mr. Speaker, both of our districts have a very significant amount of winter tomato raised in our area. We have two crops a year in our area. We have one in November and one in May. The Florida tomato farmers are really hurting. They really are.

Last season the imports of Mexican tomatoes went up 44 percent. The production of Florida tomatoes went down 23 percent. Another set of numbers is that in 1991, 5 years ago, there were 230 growers of tomatoes in Florida. Today there are only 80 growers in Florida. They are going out of business. And these are families that have been around a hundred years. Third and fourth generation. One hundred years in Florida is a long time. That may not be very long in Massachusetts, but it is in Florida.

So they are really hurting, and the question is, is the administration doing everything they should be doing.

When NAFTA was voted on, at the very end it was the Florida delegation who held out to make sure that agriculture was taken care of properly under NAFTA. Because Florida agriculture competes directly with Mexican agriculture. Michigan tomatoes do not compete with Mexican tomatoes. Mexican tomatoes only grow in the winter, and that is when we grow our tomatoes.

And it is not always a fair trade that is going on. There is a difference between free trade and fair trade. We want to have both. To make it fair, we need a level playing field. It is not always a level playing field, and we think the administration can and should do more, and they promised to do everything they could back when we talked about NAFTA in the fall of 1993.

I am really delighted that the gentleman from Illinois, Congressman EWING, was able to have the hearing down in Florida today, and so they are trying to get to the bottom of what can be done. There are certain limits to what we can do, but the gentleman is right, the administration has some ability, and I think the Department of Commerce is getting ready to come out with a ruling soon and maybe will tell us what is available for us.

One of the things that make it a fair trade issue, and one of the things I have been working on, is the situation of methyl bromide. The administration should be more cooperative. The President spoke out in California about the issue and he said, yes, I will help on that issue, but then, when he gets back to Washington, he turns it over to the EPA and they say, no, we are not going to do anything.

A University of Florida study showed the impact of methyl bromide to be a 43 percent reduction in production of those agriculture products where methyl bromide is eliminated. It would destroy Florida agriculture; not just tomatoes but winter vegetables in general.

So it is very important to work with us on that issue. They have beat us up with the Mexican tomatoes, so why can they not allow us something to give the farmer. The minimum wage will hurt our tomato farmers, so we need to see what can be done.

Mr. GOSS. Mr. Speaker, reclaiming my time, I am glad the gentleman brought these points out because this is a half billion dollar industry for Florida and there are a lot of folks who have nothing else. This is what they do. They are small farms. They have been growing for years and generations, and they are being displaced and the administration is not keeping the promises it made to help in the enforcement and the side agreements on the NAFTA compact.

It is quite clear the Mexicans, indeed, are dumping. They are selling below cost. This is putting our farmers at an unfair disadvantage. And I believe if they comply with the laws of NAFTA that our farmers can beat the socks off the Mexicans, but they have both got to play by the same rules.

TIME TO DISCUSS TRULY CRITICAL EVENTS OF 104TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I think that in these closing days of this Congress, it is particularly important that what we try to do is to organize the remaining time that we have to discuss the truly critical events of this 104th Congress. Quite honestly, that has not always been easy to do, and time and again in the Gingrich Congress Members have been gagged and have been unable to talk about truly critical events.

In fact, this week we mark an anniversary. A year ago, Democrats were forced to go out onto the lawn in front of the Capitol to hold a hearing on the cuts in Medicare that were proposed by Speaker GINGRICH and the House Republican leadership. We held these hearings out on the lawn, and my colleagues will recall that we did that because the committees of jurisdiction were only going to hold one hearing.

I repeat: One hearing on their proposal to devastate Medicare with a $270 billion cut, a cut, I might add, that was going to be used to pay for something coined the crown jewel of the Contract With America. And that was a tax cut, as it turned out, where we saw a tax cut for the most privileged people in our country.

On that day, while we held these hearings on the lawn, to give a full airing to the impact of these cuts, we had a number of stalwart seniors who protested at the sham hearing that was being held. Those seniors, and sometimes we forget past events, those seniors were arrested.

So, sadly, the history of this Congress has been a relentless attempt to keep the truth from coming out about the impact of some of these proposals.

It is particularly important to note and to talk about again because what we are seeing in a proposal that has been offered by the standard bearer for the Republican Party, by Bob Dole, his economic plan, which, if we take a hard look at it could have devastating impact on Medicare.

We also need in this context to recall what Senator Dole said about his own vote on Medicare, and I quote. Being only 1 of 12, proud to have been 1 of 12 who voted against the creation of Medicare because, he said, and again I quote, we knew it would not work. End quote.

So Senator Dole has a track record on Medicare that seniors need to be informed about. Their families need to be informed about this track record. And, frankly, they need to be concerned about it.

Under the Gingrich-Dole plan, Medicare could be cut by as much as $300 billion by the year 2002, even more than what NEWT GINGRICH and this Republican Congress tried to cut in 1995. If my colleagues will recall, that number was $270 billion, and no coincidence between the number 270 in Medicare cuts and the $245 billion that they wanted to provide in tax breaks for the wealthiest Americans.

So if we take a look at what this $300 billion means to seniors, it means even higher out-of-pocket costs and lower quality health care for seniors. These Medicare cuts would help to pay for a tax plan in which more than 40 percent of the benefits would go to the wealthiest 5 percent of Americans.

And the best evidence of how we would treat Medicare is what Republicans proposed to do to Medicare when they took over the Congress in 1995, and it is worth repeating.

First, they proposed cutting $270 billion from Medicare to pay for a $245 billion tax cut for the wealthy.

□ 2045

Second, they proposed policy changes that would have doubled premiums and would have reduced senior's choice of a doctor. Third, they proposed creating risky medical savings accounts that would skim the healthy and the wealthy out of traditional Medicare, thereby weakening the system and increasing premiums for those who remained in the program.

Let me quote to you Dr. Joseph White from the Brookings Institution, a nonpartisan Washington think tank. He said recently, "I have to look at the numbers, at the campaign statements and at what then Senator Dole and his colleagues supported in 1995 and I have to conclude that the risks to Medicare from candidate Dole's economic program are substantial."

Finally I want to point out that this assault on Medicare is part of a larger attack on America's retirement security. Think about it. When Americans look forward to retirement, the three pillars of a secure retirement that they can count on are Medicare, private pensions and nursing home care. These were all under attack in 1995.

TRIBUTE TO WALTER "CHICK" HOLTKAMP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

MEDICARE

Mr. HOKE. Mr. Speaker, before I begin, I yield to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Ohio. I wanted to show this chart, which apparently the previous speaker might not have read the bill, but it does show clearly that the Republican plan, which is a reaction to the Clinton trustees saying that Medicare is going bankrupt, our plan to strengthen, save, and preserve Medicare is very much on target and increases the amount per recipient from about $5,200 to over $7,000. In my neck of the woods and I think in

Ohio that is not considered a cut. I know here in Lala land, Washington, DC, you can call anything a cut, just as you can call Clinton a conservative.

Mr. HOKE. Is there a rule that you have to be truthful on the floor in what is said.

Mr. KINGSTON. Not that I know of. But the fact is that this is available publicly. What is very important is that we do Medicare on a bipartisan basis. It is not time to scare the seniors. It is not time to bring out all the demagoguery and partisan politics. It is time only to save the program for your mom and dad.

Mr. HOKE. Mr. Speaker, I thank the gentleman from Georgia for pointing that out.

I rise, Mr. Speaker, tonight to recognize one of northeast Ohio's leading citizens, Mr. Walter "Chick" Holtkamp. Chick is the retiring CEO of the Holtkamp Organ Co., our Nation's leading manufacturer of pipe organs. It is my purpose tonight to pay tribute to the all-inspiring contributions that he has made to his craft. On September 28, 1996, in Cleveland, OH, a gala in Chick Holtkamp's honor aptly dubbed chickfest is bringing together the world's foremost organists, composers, and artisans of the trade to recognize Chick Holtkamp and his remarkable career.

A fixture in the northeast Ohio community for over 40 years, Chick has continuously crafted organs which have earned him the reputation of premier craftsman in his trade.

Chick Holtkamp has strived and succeeded in producing organs which sustain the original musicality of classical organs. Turned off by synthesized and modern sounds, Chick gains his inspiration from the musical eras of days past. His approach to organ building is from the perspective of the musician and the organist so as to produce the most pleasing and melodic tones. A master organ builder, Chick has built more than 400 organs in his lifetime. Chick takes his place in a distinguished Holtkamp family tradition begun 141 years ago, which, remarkable in itself, makes the Holtkamp Organ Co., Cleveland, OH's oldest company.

The company, now headed by Chick's son Chris, is a benchmark for organ quality throughout the country and the world. The company's work is of such high quality and the family reputation so well known that the Encyclopedia Britannica cites Chick's father, Walter, as a world leader in an organ building revolution that began in the 1930's.

It was at that time that standard organ builders had decided that the pipes of an organ should be hidden behind screens. Why? Because the pipes were simply thought to be too unattractive and needed to be concealed. Walter Holtkamp pioneered changes both to improve the sound and the appearance of the pipes and to expose them, thus realizing the great beauty that they could add to the architectural esthetics of any building. Holtkamp organs are distinguished by their magnificent pipe displays and by the simplicity and beauty of their consoles.

Chick continued his father's tradition of ingenuity with his organ building, deciding to work closely with organists to maintain the historical significance of the organ while developing and tailoring a modern instrument which could play a new repertoire of modern music. In doing this, Chick freed the organ of earlier stereotypes and permitted organists to compose new modern works for this dynamic instrument.

These organs are a unique treasure to all because be they organist, composer, or the individual who has the privilege of seeing and hearing a Holtkamp organ personally, they are enriched. While there is no set formula for the specificities of a Holtkamp organ, indeed Holtkamp organs have been made in the entire spectrum of sizes and styles. One mainstay has been the strong and steady demand for these very special instruments.

Holtkamp organs already grace such fine institutions as the Julliard School of Music, Yale University, Notre Dame University, Western Reserve Academy, and Cleveland's own Museum of Art. The tradition of excellence will no doubt continue as Holtkamp organs are still commissioned today, making the Holtkamp Organ Co. an organ-builder in great demand today.

To commemorate his unparalleled dedication to the organ, chickfest will feature a hymn festival and organ recital by premier organists and composers from as far away as Germany. Perhaps most impressive is the fact that five composers have actually written commissioned pieces specifically to honor Chick.

Mr. Speaker, all too often in our hurried lifestyles we forget the importance of art and music in our culture and the beauty that it creates and inspires. I have had the privilege of knowing the Holtkamp family, particularly Chick's nephew, Henry, who has been my best friend for the past 30 years, and I wish to personally thank Chick and his entire family for their dedication to preserving the extraordinary and magical craft of organ building that in their hands has indeed risen to the level of art itself.

I join countless other admirers of his work in sending my sincerest congratulations on a lifetime of superb achievement.

AMERICA LOSES UNDER DOLE ECONOMIC PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I have expressed my concerns several times in the House over the Republican cuts in their budgets in Medicare, Medicaid, education programs, environmental programs over the last 2 years.

But I am particularly concerned, and I wanted to express my concern tonight, that the Dole economic plan will have an even more negative impact on Medicare and Medicaid and some of these other programs than the Republican proposals that we have seen for the last 2 years. This includes the tools to fight crime effectively. I am very concerned about the fact that Mr. Dole's suggestions in terms of his economic plan will essentially cut money that is needed by our various States and municipalities to fight crime.

If you look at Mr. Dole's record, he talks about how he is tough on crime, but he has failed in his numerous speeches to admit that he voted against putting 100,000 policemen on the street and has repeatedly tried to cut funding for this program that was established by President Clinton. His economic plan would mean ending this program when clearly the evidence indicates that crime has come down in our cities and our towns.

In my New Jersey district alone, over $6 million has been spent on hiring policemen, about 110 additional policemen. The overall crime rate has dropped in the district since President Clinton took office. But Mr. Dole has threatened to kill the Violence Against Women Act which strengthened domestic violence laws, hired more prosecutors, and created a national domestic violence hotline.

In addition, Dole voted against the Safe and Drug-free Schools Act which enables communities to implement violence and drug prevention programs. The Dole-Gingrich Congress initially tried to cut nearly $6 million from New Jersey alone for this vital program.

Mr. Dole may talk tough on crime, but his actions speak louder than his words. His economic plan will mean even more drastic cuts in the crime-fighting tools that have already brought the crime rate down.

Bob Dole has been in Congress now, until he resigned recently, for about 35 years. President Clinton has been the President for about 4 years. President Clinton and the Democrats passed a crime bill with teeth in it to put criminals behind bars, to increase the use of the death penalty, and create more jails. The Fraternal Order of Police has endorsed President Clinton, not Bob Dole.

Mr. Speaker, I have to say that after the Republicans gained control of the House and the Senate for the first time in 40 years, I expected that there would be radical changes. But looking back over the last 2 years, I could never

have imagined the extremism that poured from Speaker GINGRICH and former Senator Dole. Most important, I could never imagine the cuts and radical changes in Medicare that they have proposed.

I know that my colleagues on the other side have talked about that, and so has Ms. DELAURO tonight, but the majority of Republicans in Congress opposed Medicare's initial enactment. That included staunch opposition from then Congressman Dole, who later recalled 30 years later, and I quote, "I was there, fighting the fight, voting against Medicare, because we knew it wouldn't work in 1965."

The fact is, last year Speaker GINGRICH said he wanted to see Medicare "wither on the vine." Initial Republican proposals included increased Medicare part B premiums, additional copayments, increased deductibles, severe hospital reimbursement cuts, less services, elimination of doctor choice, and vouchers. Basically the Grand Old Party, or the GOP, wanted to get old people to pay for primarily a tax cut that would have benefited mostly rich people.

The Democrats in Congress fought these radical proposals which we think would have ended Medicare as we know it. President Clinton stood up to Republican demands to slash Medicare in last year's budget battles. Speaker GINGRICH and former Senator Dole were so intent on cutting Medicare that they held the Government hostage to their demands.

If you think about the Government shutdown that we witnessed in 1995, seniors and workers were unable to apply for Social Security or disability benefits, America's veterans were unable to file compensation pension and educational benefit claims or adjustments, and the 1-800 help line for Social Security actually went unanswered.

The Democrats prevailed and Medicare was saved for now, but former Senator Dole, out of desperation in his Presidential ambitions, has proposed even larger tax cuts than he and Speaker GINGRICH proposed last year.

I support tax cuts, but not at the expense of Medicare. I am really concerned that when Dole says we can trust him not to dismantle Medicare, that his record during his long career in Congress essentially says otherwise.

LAW ENFORCEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, a little of my background. I used to be a police officer. I believe very strongly in a lot of the activities of law enforcement in this country. After I got out of law school, I never really could practice defense law because my heart was not in it. I am too much of a pro-policeman type of person.

But I also have a very deep and fundamental belief that we have civil rights in this country that are guaranteed by our Constitution. In fact, if you look at the preamble to our Constitution, and I will quote from the Constitution, we, the people of the United States, in order to form a more perfect union, establish justice, and inferred in the name of the word "justice" is fairness, it is reasonableness. We do not have a Gestapo type of society. We do not sanction Gestapo type of tactics by law enforcement.

Now follow me into July of this year. In July of this year, we had a horrible, horrible situation down at the Olympics where somebody set off a bomb. It was a fatality, a couple of fatalities. Within a couple of days, the FBI or someone from the law enforcement agencies leaked to the media that they had fingered their suspect. This began the long nightmare for one individual called Richard Jewell. Within hours, this is the headline that appears on the New York Post, "Saint or Savage?" Within hours, another picture, "I didn't do it." This is Richard Jewell. "I didn't do it."

□ 2230

Throughout this entire country instantly, instantly this man's name became a household name, a man to be held in disgust, a man who is being labeled as the bomber of the Olympics.

Well, the FBI does as the FBI should do. They immediately executed search warrants. They went to Mr. Jewell's home he shared with his mother. They went through that home. They seized everything they possibly could seize, including their silverware, tupperware, and she said even her Disney tapes.

These are the conclusions 2 months later. Washington Post: After 2 months of exhaustive investigation of the Atlanta Olympics bombing, Federal law enforcement officials have found no solid evidence linking former security guard Richard Jewell to a pipe bomb attack, according to senior officials.

It goes on. One senior law enforcement official said investigators who have combed Jewell's apartment, Jewell's truck, and Jewell's previous residence have found no conclusive bomb residue, no witnesses to the attack, no accomplices. Moreover, preliminary analysis of the 911 phone call placed minutes before the bombing suggests that the caller was not Jewell.

What is happening to this man? Every minute of his life he has FBI agents that follow him. If he pulls out in his car to the grocery store, he has four or five law enforcement cars that go everywhere he goes. He cannot even contact his friends for fear of instigating an investigation of his friends.

My message to the FBI: If you have got the evidence, arrest him. If you do not, back off. If the man is a suspect—if the man is a suspect and you have got that evidence, then go get him. It is simple. All of us want this case resolved. But none of us should stand by and allow a citizen of this great country, especially a country where thousands and thousands of people have given their lives to maintain our fundamental foundation of justice; we should not stand by and let this persecution continue unless the FBI has investigation—excuse me, has evidence.

Now let me tell you how the FBI treats their own people. They have right now two or three agents who are being investigated for their involvement or alleged misconduct at Ruby Ridge. This has been going on for a long period of time. These agents are not followed. These agents do not wake up in the morning to find lots of cameras and FBI cars and other law enforcement cars riding their bumper. They do not have to worry about going to the grocery store and being followed by Federal law enforcement officials. No.

What the FBI does with its own, they put these people on paid leave. The deputy director, for example. He receives $122,000 a year, and he does absolutely nothing. Including benefits. He gets benefits on top of that.

Now I am not questioning whether that is justice or not, but what I am questioning is that I think the director of the FBI and the agents of the FBI and other law enforcement agencies need to apply the golden rule, and that is do unto others as you would have them do unto you.

We demand justice here. If he has got the evidence, get him; if he does not, back off.

A WITCH HUNT AGAINST THE SPEAKER OF THE HOUSE

The SPEAKER pro tempore (Mr. ROTH). Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

Mr. RIGGS. Mr. Speaker, I know the hour is getting late, and I just came back from California tonight to attend the debate and votes and have a nasty head cold to boot, but I had to come down and speak during special orders tonight after watching the partisan discord on the floor earlier tonight and listening to the comments coming from the other side of the political aisle, and that is what it is, from the very partisan Democrats in this House of Representatives, the people's House, who are now engaged, have been engaged for months, in a witch hunt against the Speaker of the House.

And make no mistake about it, that is exactly what they are doing. They have no new ideas on policy, and they cannot win a debate on the issues, so they are now resorting to political attacks against the Speaker of the House.

Now what is the origin of all this? Well, back in February of last year, this is 1 month after this Congress began, Congressman HARRY JOHNSTON, a Democrat from Florida, told the Miami Herald that the Democrats, meaning the Democrat Party leadership in the House, including the minority leader, DICK GEPHARDT, and the Democratic National Committee, were meeting weekly to, quote, investigate NEWT, end quote, referring to Speaker of the House NEWT GINGRICH. Congressman GEORGE MILLER, who is a very fiery Democratic partisan, has sponsored many complaints against the Speaker, and he is quoted in a recent book by a very respected journalist and author, Elizabeth Drew, as confirming that the Democrats intended to attack the Speaker, saying quote: NEWT is the nerve center and the energy source. Going after him is like taking out command and control. End quote.

So what we are talking about now is a very dubious claim on the part of the Democrats that a draft discussion document in the Committee on Standards of Official Conduct should be publicly released when in fact the ranking Democrat on the Committee on Standards of Official Conduct says when there is information to report, we will be complying with House rules in making such a report. That is an actual quote.

These complaints are all politically motivated, and the public should know as well as our colleagues that since 1989 Democrats in the House of Representatives have filed literally hundreds and hundreds of allegations against NEWT GINGRICH without one, without one ethics complaint being referred for further action.

In fact the only—just over the last year they have filed numerous complaints, all of which have been effectively dismissed, and the only remaining issue is a technical issue regarding tax laws, which relates to a college course that the Speaker was teaching, and I find it remarkable and commendable that he would teach a college course on the side, in addition to being Speaker of the House and a Congressman representing a Georgia congressional district.

So what is going on here? Do our Democrat colleagues in the House, are they really attempting to divert attention from the ethical problems of the Clinton administration? Because some of us remember when Bill Clinton was sworn in; in fact, when he said on the campaign trail as candidate Clinton that he would have the most ethical administration in the history of the Republic, when arguably he has given us one of the more corrupt administrations in the history of the Republic, including 14 business associates and friends who have either been convicted or pled guilty in conjunction with the Whitewater matter, and that does not even begin to speak to his wife's involvement in those same affairs.

So what is going on here? This has been, in fact, a very reform-minded Congress. We passed the Congressional Accountability Act saying that Congress has to live under the same laws as everybody else, under the same laws that we impose on American citizens and businesses. We passed a very strict gift ban. We passed tough lobbying reform. And tomorrow on this floor I am going to be able to offer legislation with some of my colleagues, eliminating taxpayer funded pensions for Members of Congress convicted of felony crimes while serving in office.

Mr. Speaker, that is something I attempted to do 2 Congresses ago in the 102nd Congress, but the leadership of the House then, the Democratic Party leadership, would not allow it, my bill to come to the House floor. Our leadership has allowed it. We will be debating on it and voting on it tomorrow. I am sure it will pass overwhelmingly.

My legislation was the direct outgrowth of the House bank and post office scandals two Congresses ago, and we do not hear our colleagues, many of whom were serving then, talking, you know, expressing outrage or ire at not only the ethical lapses of the Clinton administration, but about the things that happened on their watch: The Dan Rostenkowski affair in the last Congress. There was concerted effort to cover up then-Congressman Rostenkowski's involvement in the House post office scandal and allegations of ghost employees. That was led by many of the Democrats who are now in an incredible, I think, feed of hypocrisy and role reversal attacking the Speaker.

When we took over last January, we lost an independent audit by an outside accounting firm of House finances, and we found incredible disarray and mismanagement. Again that is something that happened, and the American people need to understand this, on the watch of the Democrat Party leadership. So they are hardly models of propriety, having conducted and presided over the whitewashed Congresses of years past, and somebody has got to stand up on this floor and provide a little institutional memory, if you will, and someone has to say to my colleagues and to the American people: Look, you are smarter than they think you are. They are banking on the facts, they are betting that you do not know and you do not care about the truth, and we think you do.

THE DRUG ISSUE IN OUR COUNTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, I first want to make a brief comment on Medicare. I get tired, night after night, hearing us being accused of cutting Medicare. I know the President alleges that this year, and I know many Americans have probably seen the tape or heard that Mrs. Clinton last year, when the President proposed a smaller increase than we said, explained very carefully that it was an increase and not a cut, and President Clinton before we took power carefully explained that it was an increase and not a cut, and, quite frankly, two or three Clintons is not bad, and I think that the Democratic Party should listen to two of the three Clintons who said it was not a cut, rather than coming up and giving misinformation to the American people.

But I came here tonight to talk about the drug issue. A lot of people think this just came up at the last minute here in the campaign. I serve on the Government Reform Subcommittee on Internal Security and Foreign Affairs where we deal with the drug issue regularly, and our subcommittee chairman, BILL ZELIFF, started right after we took over Congress in focusing on this issue and deserves tremendous credit for his persistence in keeping us in front of Congress and America and working with—when he started working with then-Senator Dole in New Hampshire over a year ago—to show him what had happened and what we had learned from our hearings. We thought we were going to have one or two hearings on the drug issue. We started with Nancy Reagan and Bill Bennett and heard some of the devastation and were shocked at the cutbacks that this administration did, and as we got in and had hearings with then-drug czar Lee Brown and had multiple hearings with the current drug czar, General McCaffrey, we have had multiple hearings with the Coalition for Partnership for Drug-free America. We met multiple times with the director of the DEA, Mr. Constantine. We have met with all branches. It became more and more clear that this was not a little issue, this was a huge issue.

Sometimes here in Washington it takes us awhile to realize what the people back home know already, and that is kids are getting shot in the streets, there are gangs all over not only our major cities, but in small towns throughout. In northeast Indiana, in my home area, in Bluffton, in Auburn and Huntington, the gangs have spread out into the small towns and dealing drugs, and we have drug battles going on. It was Congress and Washington that was slow.

It is not that this is some kind of a political effort at the last minute. We are responding to what American people saw.

A number of us went down to Central and South America and met with the leaders of those nations in Bolivia and Peru and Columbia and Mexico and

Panama, and delivered very strong messages and are trying to work with source country eradication and interdiction. We also held regional hearings in the Northeast and the Midwest, two in California. We have an upcoming one in Arizona, and going down to the border there, and over in Florida. We have been all over this Nation. It also is not a last minute political issue, it is an issue that the American people are screaming for attention, and we have been slow in responding.

I also want to comment briefly on two hearings that we did this past weekend in California. One in particular I want to talk about is one we did in Hollywood looking at the movie industry, and also one last week on the music industry. I am not going to get heavily into that, but I want to make two points.

One is we are very concerned that the message is being sent out in our music and our movies. Let me give two examples.

After I was challenged by the leader of the recording industry of America to produce some names, and I am not a big rock music fan, but the staff provided some names, she said in the newspaper that "Heroin Girl" was an antidrug message. I went out and bought it. The group Everclear whose very name basically stands for some sort of white lightning or something; there is another song on there called "Chemical Smile". If you—the song "Heroin Girl", it is at best marginal as an antidrug message. But as we heard in Hollywood, the plain fact, that and movies like "Trainspotting", while to adults may look like they have a subtle antidrug message, that when you are looking at music and movies with the glorification of death, of black clothing and skulls and so on, even presenting something with a slightly negative image like the song "Heroin Girl" does, slightly is, in fact, advancing the cause of drugs and adding to the kind of perverse romance.

In other words what they said: When you talk about drugs either direction on heroin, you advance many young people using heroin.

I want to say also why this administration I believe wants to forget about the past. I am tired of hearing that, well, we should focus on what is next, not talk about the last few years. Quite frankly, if I had their past, I would want to forget about it too. The plain truth of the matter is interdiction funds went down, supply went up, and prices went down. The acceptability of drugs in the schools went up in our teenagers.

It is very clear what happened. The President diverted funds from all operations around the country from drug interdiction and more drugs came into America. He sent messages. We had a witness at the Hollywood hearing, a psychologist who is a consultant to the movie industry, who said that when adults say to their children, look, everybody did drugs when I was a kid, do not do it now, you are sending a double message, particularly when the President of the United States laughs it off. Kids look at it and say, when I get to be an old fuddy-duddy, I will not do it either. Every kid did it, even you did it, Dad, and unless you stand up, you are going to be held accountable, and I am glad to have President Clinton on board at this point, but we cannot bring back the lives that have been lost the last few years because of past neglect.

□ 2245

AMERICA SHOULD TAKE A STAND AGAINST THE GROWING PROBLEM OF DRUG ABUSE IN AMERICA

The SPEAKER pro tempore (Mr. ROTH). Under a previous order of the House, the gentleman from Arizona [Mr. SHADEGG] is recognized for 5 minutes.

MISREPRESENTING SPEAKER GINGRICH TO THE AMERICAN PEOPLE

Mr. SHADEGG. Mr. Speaker, I, too, came to the floor to discuss the issue of drugs. Before I do, I have to turn my remarks to a comment made by one Member from the other side.

I have watched time and time and time again in this Congress, on this floor, and in television ads across America, a clear fraud and deception perpetrated on the American people. A quote from the Speaker of the U.S. House of Representatives that he wanted to see HCFA, a huge, massive Federal bureaucracy that has failed for decades to do its job well, wither on the vine. He wanted to see HCFA wither on the vine. I have watched my colleagues, one after the other on this floor, come to the floor, as happened earlier tonight, and tell the American people that that statement, wither on the vine, was said by the Speaker in reference to Medicare.

No honest, self-respecting Member of this institution can come to the floor and continue to perpetrate that misrepresentation to the American people. The Speaker did not then nor has he ever urged that Medicare wither on the vine. He urged that HCFA, a failed Federal bureaucracy, should be replaced. I am tired of hearing it misrepresented.

Mr. Speaker, last night at my home I turned on the television after having returned from a weekend trip where I attended two hearings on the problem of drugs in America. As I turned on the television, the camera went live from the TV studio to a location at an apartment complex in my congressional district, where the Arizona Department of Public Safety had just busted a metamphetamine lab in a large complex of apartments. They detailed the danger to the other residents and the fact that the operator of that metamphetamine lab had himself been arrested on the exact same charge just 2 weeks earlier.

My colleague, the gentleman from Indiana [Mr. SOUDER], has pointed out that the issue of illegal drugs is one that is not new, nor is it being brought forth just for its political points. Rather, it is an issue that our committee, the Subcommittee on National Security, International Affairs, and Criminal Justice, under the leadership of the gentleman from New Hampshire [Mr. ZELIFF], has been aggressively pursuing since the beginning of this Congress.

But I must tell the Members, we have so much more to do, and I am so distressed by what has happened. I hope America is listening. I hope they are paying attention. I hope they will cut through the fog of those who say this is just politics.

Mr. Speaker, let me bring you some facts. Drug use among American teenagers since 1992 has doubled in America. Overall drug use surged in 1 year, from 1994 to 1995, by a full 33 percent. That is a one-third increase in a single year. Since 1992, 3 years ago, it has increased by 105 percent.

Yet, in the face of these staggering statistics, what has the White House said? The White House said that this issue should not be politicized. I agree. The issue of drug use, its terrorization of our children, the testimony that I heard this weekend in Los Angeles County, CA, about the music industry and the entertainment industry and their casual attitude toward drug use in America, indeed, their promotion in movies and records of the drug lifestyle, should not be politicized.

The evidence I heard in San Luis Obispo at a hearing sponsored by my colleague, the gentlewoman from California, ANDREA SEASTRAND, where witness after witness from the DEA in Los Angeles, from the DEA in San Francisco, from the Border Patrol in San Diego, from the FBI, from the San Luis Obispo County sheriff's office about the fight they are in for the survival of this Nation and for the lives of our children against the war of drugs being waged on America should not be politicized.

Yet, we ought to look at this issue. The President, who says we should not make drugs a political issue, who says they should not be politicized, in February, 1993, eliminated on his own, 83 percent of the staff of the Office of National Drug Control Policy. The President says we should not now politicize the issue of drugs. In his fiscal year 1995 budget he called for eliminating 621 drug enforcement agents at the DEA, the FBI, the INS, the Customs Service, and the Coast Guard.

The same administration which now says, in the face of the staggering increase of drug usage by our children at every age level and among every drug,

it should not be politicized, issued an executive order early in his administration which eliminated nearly 1,000 antidrug positions in our U.S. military. The same President who now says we should not politicize the drug issue in his fiscal year 1997 budget proposal reduced drug ring interdiction spending, proposed that it be reduced by an additional 25 percent.

Mr. Speaker, I listened to the testimony in San Luis Obispo, testimony by the special agent in charge of the Drug Enforcement Administration in San Francisco, Mr. William Mitchell, that marijuana is today the No. 1 cash crop in the State of California.

When questioned by myself and others on the panel if that was a factual statement, he said, absolutely, it is the No. 1 drug problem, drug cash crop in the State of California. This is a serious problem. I commend those who testified, and I urge our Nation to take a stand against the continued plague of illegal drugs in our Nation.

Mr. Speaker, I include for the RECORD the testimony before the Subcommittee on National Security, International Affairs and Criminal Justice.

The material referred to is as follows:

TESTIMONY BEFORE THE SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS AND CRIMINAL JUSTICE

(By Edward C. Williams, Sheriff-Coroner, San Luis Obispo, CA)

Congressman Zeliff, members of the subcommittee, Congresswoman Seastrand, I am Ed Williams, Sheriff-Corner and Marshal of San Luis Obispo County. I have been a sworn police officer in California for over 38 years, during portions of five decades. I wish to thank you for the opportunity to testify before you on a subject about which I have very strong feelings and unfortunately extensive exposure.

The time allotted for me to appear before you does not allow me the opportunity to bring large boxes containing the thousands of research documents I have reviewed nor copies of lesson plans and speeches I have developed, to train police officers and inform citizens about the impact of narcotics use in our state. I won't be able to describe in detail to you the total devastation to the lives of people, young and old, from the streets of South Central Los Angeles where I grew up and subsequently worked as a Homicide detective Supervisor, to the luxurious homes of the Pacific Palisades in west Los Angeles or from the very poor section of North Palm Springs to the homes of some of the most wealthy people in this country. I also won't have time to elaborate on the helplessness that I feel as I watch the hard working members of my office attempt to deal with the effects of the flood of drugs coming into this country, knowing they will do the same work over again when the defendants are released on bail and eventually given probation, on the condition that they participate in a treatment program that admits to a 97% recidivism rate.

I do, however, have time to make a few candid statement to you and hope that you receive them in the spirit intended. First let me tell you that the term "war on drugs" when applied to the government's response to the narcotics problem in this country, were it not so serious a problem would almost be humorous. This is not simply the view of law enforcement, it is the opinion of criminals we deal with routinely. Most are themselves baffled by the legal gymnastics and lenient sentences they are given for the very serious crimes they commit. I have personally known criminals who are themselves shocked and confused by a sentence so lenient they thought it may have been received by mistake.

What can Congress do about it? I would suggest that Congress decide that the destruction caused by drugs can no longer be tolerated. Congress could withhold federal funds from states that do not deal directly and seriously with the drug problem. Congress could stop funding failed programs. Congress should stop funding social programs, just because they are packaged as drug prevention programs. If a program is funded for a year, require proof of success, before it is funded for a second year.

I don't believe this country can continue to act as if there is a never ending supply of money available to fund every whimsical program suggested, in hopes that there may be some slight reduction in drug use. The fact is that long term incarceration is cheaper than any alternative and it allows a defendant time to benefit from treatment, without constant exposure to the drug culture on the streets.

Congress should secure our nation's borders, not with more border patrols using the present catch and release policy as if fishing for an endangered species, but with a catch and keep policy to stop the repetitious violations of our borders. I believe a person who violates our border should be incarcerated for a minimum of six months. We must stop the cycle of people from all over the world walking back and forth across our borders at will.

The military should be used in an all out effort against drugs. It is clear that the problem is now so great that such a response is clearly justified. There should be no limitation of military support to federal and local law enforcement, in the "war on drugs".

Finally, bring the considerable influence of Congress to bear against those promoting the use of illegal drugs in any form. Members of Congress should take a stand against the legalization of marijuana in California, the promotion of drug use on television, and the casual statements regarding drugs made by political leaders which imply that narcotic use is not a real problem in our country and everybody does it. The fact of the matter is everybody does not do it, everybody has not done it and when everybody does it the experiment known as a democratic society will lay in ruins.

I am sure you are very much aware of the magnitude of the drug problem in this country and many experts will provide you with statistics on the subject. I would ask to introduce two short publications into your record, if that is possible. The first was published this month by Dan Lundgren, the Attorney General of California. The booklet deals with the methamphetamine problem in our state. The second was published this year by the California Narcotics Officers Association and is titled Marijuana Is Not A Medicine. This pamphlet combats the argument that marijuana is somehow good for people suffering life threatening disease.

I want to thank members of the subcommittee for the opportunity to address you this morning and I would be pleased to respond to any questions you may have.

SALUTING MICHAEL MATZ AND AMERICA'S HUMBLE HEROES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

THE REPUBLICANS' PLAN TO SAVE MEDICARE

Mr. FOX of Pennsylvania. Mr. Speaker, I come before the House tonight to bring up a few topics, not the least of which would be Medicare. We have heard from the other side tonight the Mediscare, the fiction.

The facts are, Mr. Speaker, that this House is working hopefully in a bipartisan fashion to make sure we take care of health care for our seniors. It is the same Republican majority that this year, in this session, we raised the income eligibility for seniors from $11,200 to $30,000 that seniors can earn without deductions from Social Security. It is the same Republican majority in the House that reduced the 1993 tax on Social Security that was placed by a prior Congress from that side of the aisle.

So it would be the same majority Republican Congress that would propose that we save Medicare, protect Medicare, and to make sure it is here for the next year's seniors and for the next generation of seniors.

We have a problem we ought to face. The President talked about it a few years ago, but we are doing something about it. There is $30 billion a year in fraud, waste and abuse. Under the proposed legislation, Mr. Speaker, we would hope to reduce that fraud, waste and abuse, and thus be able to make sure that Medicare is preserved and protected. That is what we are talking about here; not cuts in Medicare, preserving Medicare. We will do that.

In addition to the legislation to make penalties for those who commit fraud, waste and abuse, we are also talking about reducing paperwork costs to Medicare so those dollars go back to health care and to also make sure that medical education, which now part of that cost comes out of Medicare, that should be a separate line item in the budget, so we make sure our interns and residents are at the cutting edge of technology at our medical schools.

But let us make sure that we have that lockbox; that any savings we have from fraud, waste and abuse does not go to the general fund, Mr. Speaker, but goes back to Medicare for our seniors. We will continue to fight for seniors in this Congress.

As well, we are going to continue to fight for our citizens, be they seniors or be they young people, to make sure we increase penalties for those who would commit crimes against seniors and crimes against our youth.

We also passed legislation, not only for more police officers on the street, but we have passed legislation which gives the flexibility to communities

and counties to have a drug court if they want it, to have crime prevention programs, to increase the equipment for police, and also make sure they have the vehicles they need, as well as other programs that each community will design. So we have gone beyond the President's program for just more police. We have gone further.

But I want to take a moment of my colleagues' time tonight to also salute a local hero in my district. Michael Matz was saluted on Saturday in Montgomery County, PA. He is a humble hero, a gentleman who won a silver medal as part of the American equestrian team, but he is a third-time Olympian. For the last 20 years he has been involved with this sporting activity, which has brought him for the third time to the Olympics, but this time to the winner's circle.

What is most poignant about this day we saluted Michael Matz and his family was the fact that the individuals who came to that event were local officials, to be sure, and his family; but a very special family also came, the Roth family.

Just a few years ago when there was a horrible plane accident and tragedy in Sioux City, IA, Michael Matz and his wife were there to help save some of those individuals. The Roth family was there because three of their children were saved when Mr. Matz and his wife went back into the plane, after they got out, to save three children.

Those with great character and those humble heroes are in our own backyard. We should salute those people every day because America's heroes are all across the country. I am very lucky to have them in my district in Pennsylvania.

But I bring it to your attention tonight, my fellow colleagues, because we have great people in this country who are role models for our youth and role models for adults. I am very proud that Michael Matz is my constituent. I hope that he will continue to be followed by the public, because great projects in the future will be those that Michael Matz will be part of, and I hope America is watching.

A QUESTION FOR MIDDLE-CLASS AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, to the middle class in America, there is one question now: Are you working longer and harder and have less to show for it? Are you concerned that, while you may be better off than your parents were, will your children be better off than you are? Are you concerned that your children will not be able to share in the American dream; or has big government, irresponsible bureaucratic policies, command and control Washington politics, stolen the American dream from our children?

I believe that it has. I am not going to say it is the only cause, the only threat to the American dream, but it certainly is a significant one. As Washington grows, our own personal freedoms contract. We lose freedom with every new regulation, with every new law, with every new tax, with every new bureaucracy.

In the 1950's, the average American family paid 5 percent Federal income tax. Today it is 24 percent. That means that the average family is a two-income family, with 38 percent of the family income going to pay the Federal Government.

What does that mean? Mom and dad wake up in the morning all over America at 6:30 a.m., run downstairs, put Pop Tarts in the toaster, wake up Junior and little Sally, say, "It is time to get ready for school. I know you are tired because you stayed up last night doing your homework and playing soccer, and so forth."

Then they try to give them a quick breakfast, hoping everybody remembers to make his or her bed, brush his or her teeth. They rush them out the door. Dad kisses mom good-bye, she runs off to her job, he runs off to his job, they see each other again at 6 o'clock at night.

At 6 o'clock at night it is car pool time, it is quick dinnertime, it is bath time, it is homework, and it is bedtime at 8:30 to 9, and then they start all over again. It is a doggoned rat race. The problem is, the Federal Government is as guilty of creating it as everything that has ever happened inside the homeplace.

The reason why, as much as anything else, is this huge, growing bureaucracy that has to feed upon the taxes of the middle-class members of society. The people who are out there busting their tail, day in and day out, are feeding the Washington bureaucracy. It is time to say enough is enough.

In the early 1960's when President Kennedy cut taxes, with the top rate from 91 percent to 70 percent, the economy grew by over 42 percent. In the 1980's Reagan cut the top tax rate from 70 percent to 28 percent. As a result, the economy grew by 32 percent. Even in the 1920's, when income taxes were cut from 73 percent to 25 percent, the economy grew by 59 percent.

What does that mean? That means that businesses grow and, as businesses grow, jobs are created. Jobs are created, more revenue comes into the folks in Washington, DC, so you can balance the budget and lower the deficit by cutting taxes.

Just look at the tax cut that Dole and Kemp have proposed. If you are making $30,000 a year, if that is your family income, under the current tax plan, you are paying $1,700 in taxes. With this, you would be paying $500. The savings to families are $1,200.

I ask the middle class in America today, what would you do if you had $1,200 more today in spendable income? Maybe a little bit for college education accounts, maybe a few more shoes, a few more hamburgers, a few more CD's, maybe fixing your car up from that dent you got 6 months ago that you cannot quite fix. That is what it means. This is the real world.

In Washington, the elitists up here in the bureaucracy and the press always say, how are you going to pay for it? I do not remember any of them asking in 1993 when President Clinton passed the largest tax increase in the history of America, I do not remember anybody going back to the middle class of America and saying, how are you going to pay for this? You know, the President is about to stick it to you. He is going to get another $500 or $600 from you. How are you going to pay for it? Because they know the answer.

□ 2300

Mom and dad are going to continue working hard and busting their tail and doing the right thing, and the fat cat bureaucrats in Washington are going to continue to lap it up and enjoy it.

Think about what this tax cut means to a single mother with two children making $30,000 a year. Under the current tax system, under President Clinton, that lady pays $2,300 a year. Under the Dole plan she would pay $1,000 a year. That means to that single woman with two children, she would have another $1,300 in her wallet. Do you not think she can spend that money a lot better than the Department of Human Resources or the Department of Education, or the Department of the Interior up here in Washington?

Let us give the middle class in America a break. Let us return to them the freedom that they have earned that has been handed down from the previous generation, and let us not kill them and choke them off with excessive taxes the way we are going now.

CONFERENCE REPORT ON H.R. 1296, OMNIBUS PARKS AND PUBLIC LANDS MANAGEMENT ACT OF 1996

Mr. HAYWORTH (during the special order of the gentleman from Indiana, Mr. BURTON) submitted the following conference report and statement on the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer:

CONFERENCE REPORT (H. REPT. 104-836)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1296), to provide for the administration of certain Presidio properties at minimal cost

to the Federal taxpayer, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

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TITLE II—BOUNDARY ADJUSTMENTS AND CONVEYANCES

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Sec. 202. Zion National Park boundary adjustment.
Sec. 203. Pictured Rocks National Lakeshore boundary adjustment.
Sec. 204. Independence National Historical Park boundary adjustment.
Sec. 205. Craters of the Moon National Monument boundary adjustment.
Sec. 206. Hagerman Fossil Beds National Monument boundary adjustment.
Sec. 207. Wupatki National Monument boundary adjustment.
Sec. 208. Walnut Canyon National Monument boundary modification.
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Sec. 210. Taos Pueblo land transfer.
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Sec. 212. Cuprum, Idaho relief.
Sec. 213. Conveyance of certain property to the State of Wyoming.
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Sec. 219. Tulare conveyance.
Sec. 220. Alpine School District.
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Sec. 223. Coastal Barrier Resources System.
Sec. 224. Conveyance to Del Norte County Unified School District.

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Sec. 302. Anaktuvuk Pass land exchange.
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TITLE IV—RIVERS AND TRAILS

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Sec. 1033. Boston Harbor Islands Recreation Area.
Sec. 1034. Natchez National Historical Park.

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SEC. 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SEC. 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable with 30 days notice. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. Notwithstanding section 3503 of title 5, United States Code, the Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

SEC. 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this title referred to as the "Trust").

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled "Presidio Trust Number 1", dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the "William Penn Mott Visitor Center". Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of the program required under section 104(c) of this title, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of the following 7 members:

(A) The Secretary of the Interior or the Secretary's designee.

(B) 6 individuals, who are not employees of the Federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues. The Board may establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and

detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SEC. 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the "management plan") approved for the Presidio.

(b) AUTHORITIES.—The Trust may participate in the development of programs and activities at the properties transferred to the Trust, except that the Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of Federal, State and local governments as are necessary and appropriate to carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust, with the exception of laws and regulations related to Federal government contracts governing working conditions and wage rates, including the provisions of sections 276a-276a-6 of title 40, United States Code (Davis-Bacon Act), and any civil rights provisions otherwise applicable thereto. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition.

(c) MANAGEMENT PROGRAM.—The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the Federal Government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) FINANCIAL AUTHORITIES.—To augment or encourage the use of non-Federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan: Provided, That—

(A) the terms of the guarantee are approved by the Secretary of the Treasury;

(B) adequate subsidy budget authority is provided in advance in appropriations Acts; and

(C) such guarantees are structured so as to minimize potential cost to the Federal Government. No loan guarantee under this title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this title. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) DONATIONS.—The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust is encouraged to maintain a liaison with the Golden Gate National Park Association.

(f) PUBLIC AGENCY.—The Trust shall be deemed to be a public agency for purposes of entering into joint exercise of powers agreements pursuant to California government code section 6500 and related provisions of that Code.

(g) PROCEEDS.—Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. The Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United Stats of comparable maturity.

(h) SUITS.—The Trust may sue and be sued in its own name to the same extent as the Federal Government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(i) MEMORANDUM OF AGREEMENT.—The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(j) BYLAWS, RULES, AND REGULATIONS.—The Trust may adopt, amend, repeal, and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(k) DIRECT NEGOTIATIONS.—For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(l) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(m) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with Federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this title to the extent practicable.

(n) LEASING.—In managing and leasing the properties transferred to it, the Trust shall consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: Tenants that enhance the financial viability of the Presidio and tenants that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(o) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section 105(b) of this title, then all property under the administrative jurisdiction of the Trust pursuant to section 103(b) of this title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SEC. 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this title in each fiscal year after the enactment of this title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3,000,000 annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this title.

(b) Within 1 year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust. No further funds shall be authorized for the Trust 15 years after the first meeting of the Board of Directors of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance, including detailees as necessary, to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SEC. 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the Federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—BOUNDARY ADJUSTMENTS AND CONVEYANCES

SEC. 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SEC. 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire 2 years after the date of the enactment of this Act.

SEC. 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the map entitled "Area Proposed for Addition to Pictured Rocks National Lakeshore", numbered 625–80,043A, and dated July 1992.

SEC. 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled "Exhibit 1, Independence National Historical Park, Boundary Adjustment", and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SEC. 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the Moon National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled "Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment", numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SEC. 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection after subsection (c):

"(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.".

SEC. 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundaries of the Wupatki National Monument, Arizona, are hereby revised to include the lands and interests in lands within the area generally depicted as "Proposed Addition 168.89 Acres" on the map entitled "Boundary—Wupatki and Sunset Crater National Monuments, Arizona", numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SEC. 208. WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION.

(a) PURPOSE.—The purpose of this section is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this section referred to as the "national monument") to improve management of the national monument and associated resources.

(b) BOUNDARY MODIFICATION.—Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

(c) ACQUISITION AND TRANSFER OF PROPERTY.—The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this section) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the

monument pursuant to the boundary modification under subsection (b) is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

(d) ADMINISTRATION.—The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service, and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 209. BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE.

(a) PURPOSE.—It is the purpose of this section to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

(b) DEFINITIONS.—For the purpose of this section:

(1) The term "affected lands" means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident.

(2) The term "claimant" means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in paragraph (1), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys.

(3) The term "Secretary" means the Secretary of Agriculture.

(c) CONVEYANCE OF LANDS.—Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in subsection (b)(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in subsection (d).

(d) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(e) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this section, the Secretary shall issue a quit claim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(f) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this section no later than 30 days after the date such deed is issued.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out the purposes of this section.

SEC. 210. TAOS PUEBLO LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this section, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this section.

SEC. 211. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

(d) INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.—Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and to acquire by donation, exchange, or purchase with donated or appropriated funds the lands or interests in lands (with or without improvements) within the areas depicted on the map dated August 1993, numbered 333/80031A, and entitled "Page Landing Addition to Colonial National Historical Park". Such map shall be on file and available for inspection in the offices of the National Park Service at Colonial National Historical Park and in Washington, District of Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 212. CUPRUM, IDAHO RELIEF.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliquot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams Country, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this section to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

(c) AMENDMENT OF PATENT.—The 1909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as "Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho" prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(d) SURVEY.—The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SEC. 213. CONVEYANCE OF CERTAIN PROPERTY TO THE STATE OF WYOMING.

(a) CONVEYANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Wyoming without reimbursement—

(A) all right, title, and interest of the United States in and to the portion of the property commonly known as "Ranch A" in Crook County,

Wyoming, other than the portion described in subparagraph (B), consisting of approximately 600 acres of land (including all real property, buildings, and all other improvements to real property) and all personal property (including art, historic light fixtures, wildlife mounts, draperies, rugs, and furniture directly related to the site, including personal property on loan to museums and other entities at the time of transfer); and

(B) all right, title, and interest of the United States in and to all buildings and related improvements and all personal property associated with the real property described as Township 52 North, Range 61 West, Section 24 N½ SE¼, consisting of approximately 80 acres of land, including a permanent right of way to allow the use of the improvements and personal property as provided in subsection (b)(1).

(b) USE AND REVERSIONARY INTEREST.—

(1) USE.—The property conveyed to the State of Wyoming under this section shall be retained in public ownership and be used by the State for the purposes of—

(A) fish and wildlife management and educational activities; and

(B) using, maintaining, displaying, and restoring, through State or local agreements, or both, the museum-quality real and personal property and the historical interests and significance of the real and personal property, consistent with applicable Federal and State laws.

(2) ACCESS BY INSTITUTIONS OF HIGHER EDUCATION.—The State of Wyoming shall provide access to the property for institutions of higher education at a compensation level that is agreed to by the State and the institutions of higher education.

(3) REVERSION.—All right, title, and interest in and to the property shall revert to the United States if—

(A) the property described in subsection (a) is not used by the State of Wyoming for the purposes set forth in paragraph (1);

(B) there is any development of the property (including commercial or recreational development, but not including the construction of small structures strictly in accordance with paragraph (1)); or

(C) the State does not make every reasonable effort to protect and maintain the quality and quantity of fish and wildlife habitat on the property.

(c) ADDITION TO THE BLACK HILLS NATIONAL FOREST.—

(1) TRANSFER.—Administrative jurisdiction of the real property described in subsection (a)(1)(B) (excluding the improvements and personal property conveyed to the State of Wyoming) is transferred to the Secretary of Agriculture, to be included in and managed as part of the Black Hills National Forest.

(2) NO HUNTING OR MINERAL DEVELOPMENT.—No hunting or mineral development shall be permitted on any of the land transferred to the administrative jurisdiction of the Secretary of Agriculture by paragraph (1).

SEC. 214. RELINQUISHMENT OF INTEREST.

(a) IN GENERAL.—The United States relinquishes all right, title, and interest that the United States may have in land that—

(1) was subject to a right-of-way that was granted to the predecessor of the Chicago and Northwestern Transportation Company under the Act entitled "An Act granting to railroads the right of way through the public lands of the United States", approved March 3, 1875 (43 U.S.C. 934 et seq.), which right-of-way the Company has conveyed to the city of Douglas, Wyoming; and

(2) is located within the boundaries of the city limits of the city of Douglas, Wyoming, or between the right-of-way of Interstate 25 and the city limits of the city of Douglas, Wyoming, as determined by the Secretary of the Interior in consultation with the appropriate officials of the city of Douglas, Wyoming.

(b) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall file for recordation in the real property records of Converse County, Wyoming, a deed or other appropriate form of instrument conveying to the city of Douglas, Wyoming, all right, title, and interest in the land described in subsection (a).

(c) CONVEYANCE OF CERTAIN PROPERTY TO THE BIG HORN COUNTY SCHOOL DISTRICT NUMBER 1, WYOMING.—The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District Number 1, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lots 19–24 of Block 22, all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of section 31 of T. 58N., R. 97 W., Big Horn County.

SEC. 215. MODOC NATIONAL FOREST.

(a) IN GENERAL.—The boundary of the Modoc National Forest is hereby modified to include and encompass 760 acres, more or less, on the following described lands: Mount Diablo Meridian, Lassen County, California, T. 38 N., R. 10 E., sec. 5, SE¼NW¼, E½SW¼; sec. 8, E½NE¼, NE¼NW¼, NE¼SE¼; sec. 16, W½; sec. 25, Lots 13, 14 and 15 (S½SW¼, SW¼SE¼); T. 37 N., R. 11 E., sec. 20, NW¼SE¼.

(b) RULE FOR LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundary of the Modoc National Forest, as modified by this title, shall be considered to be the boundary of that National Forest as of January 1, 1965.

SEC. 216. CONVEYANCE TO CITY OF SUMPTER, OREGON.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the city of Sumpter, Oregon (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property of approximately 1.43 acres consisting of all of block 8 of the REVISED PLAN OF SUMPTER TOWNSITE in the City, as shown in plat recorded March 6, 1897, in Plat Book 3, page 26; including the alley running through such block, vacated by Ordinance No. 1966–3, recorded December 14, 1966, in Deed 66–50–014.

(b) ADDITIONAL DESCRIPTION OF PROPERTY.—The real property to be conveyed under subsection (a) consists of the same property that was deeded to the United States in the following deeds:

(1) Warranty Deed from Sumpter Power & Water Company to the United States of America dated October 12, 1949, and recorded in Vol. 152, page 170 of Baker County records on December 22, 1949.

(2) Warranty Deed from Mrs. Alice Windle to the United States of America dated October 11, 1949, and recorded in Vol. 152, page 168 of Baker County records on December 22, 1949.

(3) Warranty Deed from Alice L. Windle Charles and James M. Charles to the United States of America dated August 8, 1962, and recorded in Book 172, page 1331 on August 27, 1962.

(c) CONDITION OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the condition that the City use the conveyed property only for public purposes, such as a city park, information center, or interpretive area.

(d) RELEASE.—Upon making the conveyance required by subsection (a), the United States is relieved from liability for any and all claims arising from the presence of materials on the conveyed property.

(e) REVERSIONARY INTEREST.—If the Secretary of Agriculture determines that the real property conveyed under subsection (a) is not being used in accordance with the condition specified in subsection (c) or that the City has initiated proceedings to sell, lease, exchange, or otherwise dispose of all or a portion of the property, then, at the option of the Secretary, the United States shall have a right of reentry with regard to the property, with title thereto revesting in the United States.

(f) AUTHORIZED SALE OF PROPERTY.—Notwithstanding subsections (c) and (e), the Secretary of Agriculture may authorize the City to dispose of the real property conveyed under subsection (a) if the proceeds from such disposal are at least equal to the fair market value of the property and are paid to the United States. The Secretary shall deposit amounts received under this subsection into the special fund in the Treasury into which funds are deposited pursuant to the Act of December 4, 1967 (16 U.S.C. 484a), commonly known as the Sisk Act. The disposal of the conveyed property under this subsection shall be subject to such terms and conditions as the Secretary may prescribe.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Agriculture may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 217. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) AUTHORITY.—Notwithstanding the Act of June 11, 1940 (16 U.S.C. 261 et seq.), the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 10 acres of land or interests in land, which shall consist of those necessary lands for the establishment of trailheads to be located at White Rocks and Chadwell Gap.

(b) ADMINISTRATION.—Lands and interests in lands acquired pursuant to subsection (a) shall be added to and administered as part of Cumberland Gap National Historical Park.

SEC. 218. SHENANDOAH NATIONAL PARK.

(a) IN GENERAL.—The boundary of Shenandoah National Park is hereby modified to include only those lands and interests therein that, on the day before the date of the enactment of this Act, were in Federal ownership and were administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") as part of the park. So much of the Act of May 22, 1926 (Chapter 363; 44 Stat. 616) as is inconsistent herewith is hereby repealed.

(b) MINOR BOUNDARY ADJUSTMENTS.—

(1) MINOR BOUNDARY ADJUSTMENTS.—The Secretary is authorized to make minor adjustments to the boundary of Shenandoah National Park, as modified by this section, to make essential improvements to facilitate access to trailheads to the park that exist on the day before the date of the enactment of this Act. In addition, the Secretary may acquire or accept donations of lands adjacent to the park for the purposes of making minor boundary adjustments, whenever the Secretary determines such lands would further the purposes of the park.

(2) FURTHER LIMITATIONS ON MINOR BOUNDARY ADJUSTMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary may acquire lands and interests therein under this subsection only—

(i) by donation, or exchange; and

(ii) with the consent of the owner.

(B) ADDITIONAL RESTRICTIONS.—When acting under this subsection—

(i) the Secretary may add to the Shenandoah National Park only lands and interests therein that are contiguous with Federal lands administered by the Secretary as part of the park;

(ii) prior to accepting title to any lands or interests therein, the Secretary shall hold a public

meeting in the county in which such lands and interests are located;

(iii) the Secretary shall not alter the primary means of access of any private landowner to the lands owned by such landowner; and

(iv) the Secretary shall not cause any property owned by a private individual, or any group of adjacent properties owned by private individuals, to be surrounded on all sides by land administered by the Secretary as part of the park.

(C) PUBLIC LAND.—Lands or interests in land located within the boundaries of a park owned by the Commonwealth of Virginia or a political subdivision of the Commonwealth of Virginia may be acquired by the Secretary under this section only by donation or exchange.

(D) NO CONDEMNATION.—Under this section, the Secretary may not accept a donation of land or an interest in land that was acquired through condemnation.

(c) MITIGATION OF IMPACTS AT ACCESS POINTS.—The Secretary shall take all reasonable actions to mitigate the impacts associated with visitor use at trailheads around the perimeter of Shenandoah National Park. The Secretary shall enlist the cooperation of the State and local jurisdictions, as appropriate, in carrying out this subsection.

(d) COMPREHENSIVE BOUNDARY STUDY.—Within 3 years after the date of enactment of this Act, the Secretary shall complete a comprehensive boundary study for Shenandoah National Park in accordance with the National Environmental Policy Act. The Secretary shall forward copies of such study to the appropriate congressional committees.

SEC. 219. TULARE CONVEYANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsections (c), (d), and (e), the following conveyance is hereby validated to the extent that the conveyances would have been legal or valid if all right, title, and interest of the United States had been held by the Southern Pacific Transportation Company at the time of such conveyance:

(1) Conveyance of parcels from the lands described in subsection (b) made by the Southern Pacific Transportation Company or its subsidiaries, predecessors, successors, agents, or assigns, on or before April 15, 1996.

(2) Conveyance of parcels from the lands described in paragraphs (1) and (2) of subsection (b) made after April 15, 1996, by the Southern Pacific Transportation Company, or its successors, agents, or assigns, to the Redevelopment Agency of the city of Tulare.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are the lands that—

(1) formed part of a railroad right-of-way granted to the Southern Pacific Railroad Company, or its successors, agents, or assigns, by the Federal Government; and

(2) are located within the boundaries of Amended Urban Renewal Plan for California A-8-1 (the Downtown Plan) adopted by the city of Tulare, California, generally depicted on the map entitled "Amended Urban Renewal Plan for California A-8-1", dated March 7, 1989.

The map referred to in paragraph (2) shall be on file and available for public inspection in the offices of the director of the Bureau of Land Management.

(c) MINERALS.—(1) The United States hereby reserves any federally owned minerals that may exist in land that is conveyed pursuant to this section, including the right of the United States, its assignees or lessees, to enter upon and utilize as much of the surface of such land as is necessary to remove minerals under the laws of the United States.

(2) Any and all minerals reserved by paragraph (1) are hereby withdrawn from all forms of entry, appropriation, and patent under the mining, mineral leasing, and geothermal leasing laws of the United States.

(d) TAKING OF PRIVATE LAND.—If the validation of any conveyance pursuant to subsection (a) would constitute a taking of the private property within the meaning of the Fifth Amendment to the United States Constitution, the validation of the conveyance shall be effective only upon payment by the Southern Pacific Transportation Company (or its subsidiaries, successors, agents, or assigns) to the Secretary of the Treasury of the fair market value of the property taken.

(e) PRESERVATION OF EXISTING RIGHTS OF ACCESS.—Nothing in this section shall impair any existing rights of access in favor of the public or any owner of adjacent lands over, under or across the lands which are referred to in subsection (a).

SEC. 220. ALPINE SCHOOL DISTRICT.

(a) CONVEYANCE REQUIRED.—(1) The Secretary of Agriculture shall convey, without consideration, to the Alpine Elementary School District 7 of the State of Arizona (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 30 acres located in the Apache National Forest, Apache County, Arizona, and further delineated as follows: North ½ of Northeast ¼ of Southeast ¼ of section 14, Township 5 North, Range 30 East, Gila and Salt River meridian, and North ½ of South ½ of Northeast ¼ of Southeast ¼ of such section.

(2) The exact acreage and legal description of the real property to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(b) CONDITION OF CONVEYANCE.—The conveyance made under subsection (a) shall be subject to the condition that the School District use the conveyed property for public school facilities and related public school recreational purposes.

(c) RIGHT OF REENTRY.—The United States shall retain a right of reentry in the property to be conveyed. If the Secretary determines that the conveyed property is not being used in accordance with the condition in subsection (b), the United States shall have the right to reenter the conveyed property without consideration.

(d) ENCUMBRANCES.—The conveyance made under subsection (a) shall be subject to all encumbrances on the property existing as of the date of the enactment of this Act.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 221. MERCED IRRIGATION DISTRICT LAND EXCHANGE.

(a) CONVEYANCE.—(1) The Secretary of the Interior may convey the Federal lands described in subsection (d)(1) in exchange for the non-Federal lands described in subsection (d)(2), in accordance with the provisions of this Act.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—The land exchange required in this section shall be carried out in accordance with section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) and in accordance with other applicable laws.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary of the Interior shall not carry out an exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) LANDS TO BE EXCHANGED.—

(1) FEDERAL LANDS TO BE EXCHANGED.—The Federal lands referred to in this section to be exchanged consist of approximately 179.4 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Federal Land", dated March 15, 1995, more particularly described as follows:

T. 3 S., R. 15 E., MDM (Mount Diablo Meridian): sec. 35, SW¼SE¼, containing approximately 40 acres.

T. 4 S., R. 15 E., MDM (Mount Diablo Meridian):

Sec. 14: E½SE¼SE¼, containing approximately 20 acres.

Sec. 23: NE¼SE¼, containing approximately 40 acres.

T. 5 S., R. 15 E., MDM (Mount Diablo Meridian):

Sec. 2: Lot 1, containing approximately 57.9 acres.

Sec. 3: Lots 7 thru 15, containing approximately 21.5 acres.

(2) NON-FEDERAL LANDS TO BE EXCHANGED.—The non-Federal lands referred to in this section to be exchanged consist of approximately 160 acres in Mariposa County, California as generally depicted on the map entitled "Merced Irrigation District Exchange—Proposed, Non-Federal Land", dated March 15, 1995, more particularly described as T. 4 S., R17E MDM (Mount Diablo Meridian): sec. 2, SE¼.

(3) MAPS.—The maps referred to in this subsection shall be on file and available for inspection in the office of the Director of the Bureau of Land Management.

(4) PARTIAL REVOCATION OF WITHDRAWALS.—The Executive order of December 31, 1912, creating Powersite Reserve No. 328, and the withdrawal of Federal lands for Power Project No. 2179, filed February 21, 1963, in accordance with section 24 of the Federal Power Act are hereby revoked insofar as they affect the Federal lands described in paragraph (1). Any patent issued on such Federal lands shall not be subject to section 24 of said Act.

SEC. 222. FATHER AULL SITE TRANSFER.

(a) SHORT TITLE.—This section may be cited as the "Father Aull Site Transfer Act of 1996".

(b) CONVEYANCE OF PROPERTY.—Subject to valid existing rights, all right, title and interest of the United States in and to the land (including improvements on the land), consisting of approximately 43.06 acres, located approximately 10 miles east of Silver City, New Mexico, and described as follows: T. 17 S., R. 12 W., Section 30: Lot 13, and Section 31: Lot 27 (as generally depicted on the map dated July 1995) is hereby conveyed by operation of law to St. Vincent DePaul Parish in Silver City, New Mexico, without consideration.

(c) RELEASE.—Upon the conveyance of any land or interest in land identified in this section to St. Vincent DePaul Parish, St. Vincent DePaul Parish shall assume any liability for any claim relating to the land or interest in the land arising after the date of the conveyance.

(d) MAP.—The map referred to in this section shall be on file and available for public inspection in—

(1) the State of New Mexico Office of the Bureau of Land Management, Santa Fe, New Mexico; and

(2) the Las Cruces District Office of the Bureau of Land Management, Las Cruces, New Mexico.

SEC. 223. COASTAL BARRIER RESOURCES SYSTEM.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that depictions of areas on those maps are consistent with the depictions of areas appearing on the maps entitled "Amendments to Coastal Barrier Resources System", dated November

1, 1995, and June 1, 1996, and on file with the Secretary.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) relate to the following units of the Coastal Barrier Resources System: P05, P05A, P10, P11, P11A, P18, P25, P32, and P32P.

SEC. 224. CONVEYANCE TO DEL NORTE COUNTY UNIFIED SCHOOL DISTRICT.

(a) CONVEYANCE.—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall convey to the Del Norte County Unified School District of Del Norte County, California, in accordance with this section, all right, title, and interest of the United States in and to the property described in subsection (b).

(b) PROPERTY DESCRIPTION.—The property referred to in subsection (a) is that portion of Township 17 North, Range 2 East, Humboldt Meridian in Del Norte County, California, which is further described as follows:

Beginning at Angle Point No. 3 of Tract 41 as resurveyed by the Bureau of Land Management under survey Group No. 1013, approved August 13, 1990, and shown on the official plat thereof;

thence on the line between Angle Points No. 3 and No. 4 of Tract 41, North 89 degrees, 24 minutes, 20 seconds East, a distance of 345.44 feet to Angle Point No. 4 of Tract 41;

thence on the line between Angle Points No. 4 and No. 5 of Tract 41, South 00 degrees, 01 minutes, 20 seconds East, a distance of 517.15 feet;

thence West, a distance of 135.79 feet;

thence North 88 degrees, 23 minutes, 01 seconds West, a distance of 61.00 feet;

thence North 39 degrees, 58 minutes, 18 seconds West, a distance of 231.37 feet to the East line of Section 21, Township 17 North, Range 2 East;

thence along the East line of Section 21, North 00 degrees, 02 minutes, 20 seconds West, a distance of 334.53 feet to the point of beginning.

(c) CONSIDERATION.—The conveyance provided for in subsection (a) shall be without consideration except as required by this section.

(d) CONDITIONS OF CONVEYANCE.—The conveyance provided for in subsection (a) shall be subject to the following conditions:

(1) Del Norte County shall be provided, for no consideration, an easement for County Road No. 318 which crosses the Northeast corner of the property conveyed.

(2) The Pacific Power and Light Company shall be provided, for no consideration, an easement for utility equipment as necessary to maintain the level of service provided by the utility equipment on the property as of the date of the conveyance.

(3) The United States shall be provided, for no consideration, an easement to provide access to the United States property that is south of the property conveyed.

(e) LIMITATIONS ON CONVEYANCE.—The conveyance authorized by subsection (a) is subject to the following limitations:

(1) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(2) RE-ENTRY RIGHT.—The United States shall retain a right of re-entry in the land described for conveyance in subsection (b). If the Secretary determines that the conveyed property is not being used for public educational or related recreational purposes, the United States shall have a right to re-renter the property conveyed therein without consideration.

(f) ADDITIONAL TERMS AND CONDITIONS.—The conveyance provided for in subsection (a) shall be subject to such additional terms and conditions as the Secretary of Agriculture and the Del Norte County Unified School District agree are necessary to protect the interests of the United States.

TITLE III—EXCHANGES

SEC. 301. TARGHEE NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in subsection (d) in exchange for the non-Federal lands described in subsection (e) in accordance with the provisions of this section.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this section, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

(d) FEDERAL LANDS.—The Federal lands referred to in this section are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(e) NON-FEDERAL LANDS.—The non-Federal lands referred to in this section are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(f) MAPS.—The maps referred to in subsections (d) and (e) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

(g) EQUALIZATION OF VALUES.—Prior to the exchange authorized by this section, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (b)).

(h) DEFINITIONS.—For purpose of this section:

(1) The term "Federal lands" means the Federal lands described in subsection (d).

(2) The term "non-Federal lands" means the non-Federal lands described in subsection (e).

(3) The term "Secretary" means the Secretary of Agriculture.

SEC. 302. ANAKTUVUK PASS LAND EXCHANGE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

(b) RATIFICATION OF AGREEMENT.—

(1) RATIFICATION.—

(A) IN GENERAL.—The terms, conditions, procedures, covenants, reservations, and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this section as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(B) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(2) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates

of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

(c) NATIONAL PARK SYSTEM WILDERNESS.—

(1) GATES OF THE ARCTIC WILDERNESS.—

(A) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(B) MAP.—The lands redesignated by subparagraph (A) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(2) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(A) striking "approximately six million four hundred and sixty thousand acres" and inserting in lieu thereof "approximately 6,477,168 acres"; and

(B) inserting "and the map entitled "Noatak National Preserve and Noatak Wilderness Addition" dated September 1994" after "July 1980".

(3) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

(d) CONFORMANCE WITH OTHER LAW.—

(1) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(2) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this section or the Agreement, nothing in this section or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

SEC. 303. ALASKA PENINSULA SUBSURFACE CONSOLIDATION.

(a) DEFINITIONS.—As used in this section:

(1) AGENCY.—The term "agency"—

(A) means any instrumentality of the United States, and any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term "Alaska Native Corporation" has the same meaning as is provided for "Native Corporation" in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTERESTS THEREIN.—The term "Federal lands or interests therein" means any lands or properties owned by the United States (A) which are administered by the Secretary, or (B) which are subject to a lease to third parties, or (C) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties: Provided however, That excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term "Koniag" means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term "Regional Corporation" has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term "selection rights" means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as "Koniag Selections" on the map entitled "Koniag Interest Lands, Alaska Peninsula", dated May 1989.

(b) VALUATION OF KONIAG SELECTION RIGHTS.—

(1) IN GENERAL.—Pursuant to paragraph (2) of this subsection, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(2) VALUE.—

(A) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(i) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(ii) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(B) APPRAISAL.—

(i) SELECTION OF APPRAISER.—

(I) IN GENERAL.—Not later than 90 days after the date of enactment of this section the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to subclause (II), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(II) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in subclause (I), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(ii) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(iii) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to clause (i), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(C) DETERMINATION OF VALUE.—

(i) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under subparagraph (B)(iii), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(ii) ALTERNATIVE DETERMINATION OF VALUE.—

(I) IN GENERAL.—Subject to subclause (II), if Koniag does not agree with the value determined by the Secretary under clause (i), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(II) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

(c) KONIAG ACCOUNT.—

(1) IN GENERAL.—(A) The Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(B) If the value of the Federal property to be exchanged is less than the value of the Selection Rights established in subsection (b), and if such Federal property to be exchanged is not generating receipts to the Federal Government in excess of $1,000,000 per year, then the Secretary may exchange the Federal property for that portion of the Selection Rights having a value equal to that of the Federal property. The remaining selection rights shall remain available for additional exchanges.

(C) For the purposes of any exchange to be consummated under this section, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to subsection (b) hereof and the denominator of which is the total number of acres of selection rights.

(2) ADDITIONAL EXCHANGES.—If, after 10 years from the date of the enactment of this section, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such Federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the Federal Government in excess of $1,000,000 per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (A) declining to proceed with the exchange and identifying other property, or (B) paying the difference in value between the property rights.

(d) CERTAIN CONVEYANCES.—

(1) INTERESTS IN LAND.—For the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation

for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(2) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

SEC. 304. SNOWBASIN LAND EXCHANGE ACT.

(a) PURPOSE AND INTENT.—The purpose of this section is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by subsection (d).

(b) DEFINITIONS.—As used in this section:

(1) The term "Sun Valley Company" means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns.

(2) The term "Secretary" means the Secretary of Agriculture.

(c) EXCHANGE.—

(1) FEDERAL SELECTED LANDS.—(A) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this section, transfer all right, title, and interest of the United States in and to the lands referred to in subparagraph (B) to the Sun Valley Company.

(B) The lands referred to in subparagraph (A) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled "Snowbasin Land Exchange—Proposed" and dated October 1995.

(2) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under paragraph (1), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to subparagraph (E) prior to the transfer of lands under paragraph (1), as are of approximate equal value to the Federal selected lands:

(A) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled "Lightning Ridge Offered Lands", dated October 1995.

(B) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled "Wheeler Creek Watershed Offered Lands—Section 2" dated October 1995.

(C) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled "Taylor Canyon Offered Lands", dated October 1995.

(D) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled "North Fork Ogden River—Devil's Gate Valley", dated October 1995.

(E) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this section approximately equal, and which are acceptable to the Secretary.

(3) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in subparagraphs (A) through (D) of paragraph (2) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in subparagraphs (A) through (D) of paragraph (2).

(4) VALUATION AND APPRAISALS.—(A) Values of the lands to be exchanged pursuant to this section shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this section, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this section, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(i) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(ii) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(iii) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(iv) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

(d) GENERAL PROVISIONS RELATING TO THE EXCHANGE.—

(1) IN GENERAL.—The exchange authorized by this section shall be subject to the following terms and conditions:

(A) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to subsection (c)(1), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(B) RIGHT OF RESCISSION.—This section shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this section.

(2) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in subsection (c)(1) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(3) DEED.—The conveyance of the offered lands to the United States under this section shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(4) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this section shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the "Weeks Act"), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This paragraph does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 ("Weeks Act"). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this section, shall be considered to be boundaries of the forests as of January 1, 1965.

(e) PHASE FACILITY CONSTRUCTION AND OPERATION.—

(1) PHASE I FACILITY FINDING AND REVIEW.—(A) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this subsection referred to as the "Master Plan"). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the "Phase I" facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this section are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(B) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this section. The Secretary may modify such Phase I facilities

upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to paragraph (2) of this subsection.

(C) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to subparagraph (B), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of paragraph (2) of this subsection.

(2) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(A) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(B) the modification is necessary to protect health and safety.

Nothing in this subsection shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(3) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this section and all determinations, authorizations, and actions taken by the Secretary pursuant to this section pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

(f) NO PRECEDENT.—Nothing in subsection (c)(4)(B) of this section relating to conditions or limitations on the appraisal of the Federal lands, or any provision of subsection (e), relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

SEC. 305. ARKANSAS AND OKLAHOMA LAND EXCHANGE.

(a) FINDINGS.—Congress finds that:

(1) the Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 181,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interests pertaining to 48,000 acres of these 181,000 acres of exchanged lands in which Weyerhaeuser has an interest, consisting of—

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the "Pond Creek Bottoms" in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this section is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

(c) DEFINITIONS.—As used in this section:

(1) LAND.—The terms "land" or "lands" mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(2) MINERAL INTERESTS.—The term "mineral interests" means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(3) OIL AND GAS INTERESTS.—The term "oil and gas interests" means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams (collectively "oil and gas").

(4) SECRETARIES.—The term "Secretaries" means the Secretary of the Interior and the Secretary of Agriculture.

(5) WEYERHAEUSER.—The term "Weyerhaeuser" means Weyerhaeuser Company, a company incorporated in the State of Washington.

(d) EXCHANGE OF LANDS AND MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 acres of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled "Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (e) and which are acceptable to and approved by the Secretary of Agriculture to the following—

(A) approximately 115,000 acres of lands and mineral interests in the State of Oklahoma, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 41,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests in the State of Arkansas, as depicted on a map entitled "Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands," dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(e) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in subsection (d)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in subsection (d)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands , dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this title and the form of such reservation shall comply with the jointly agreed to Memorandum of Understanding between the Forest Service and Weyerhaeuser dated March 27, 1996 and on file with the Office of the Chief of the Forest Service in Washington, D.C. and

with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives.

(f) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this section is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsections (d) and (e) and the lands, mineral interests, or oil and gas interests depicted on a map referred to in such subsection, the map shall control. The maps referenced in this section shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser so long as the Secretary of Agriculture notifies the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives of any such minor corrections.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (d) and (e), the Secretaries shall transmit maps accurately depicting the lands, mineral interests, and oil and gas interests conveyed and transferred pursuant to this section and the acreage and boundary descriptions of such lands, mineral interests, and oil and gas interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (d) and (e), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Act and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (d) and (e) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (d) and (e) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

(g) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 156,000 acres of land conveyed to the United States pursuant to subsection (d)(2)(A) and (B) of this section shall be subject to the Act of March 1, 1911 (commonly known as the Weeks Law) (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest System.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this section, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604); Provided, that no amendment or revision of applicable land and resource management plans shall be required prior to completion of the amendment process required by this paragraph for the Secretary of Agriculture to authorize or undertake activities consistent with forest wide standards and guidelines and all other applicable laws and regulations on lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B).

(h) OTHER.—

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in subsection (d)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this section, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this section and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in paragraph (1) shall comport with the applicable State law.

(i) OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to subsection (d)(2)(A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in subsection (d). Nothing in this subsection shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this section, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(j) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in subsection (d)(2)(A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Act, except that the Secretary of Agriculture may correct clerical and typographical errors.

SEC. 306. BIG THICKET NATIONAL PRESERVE.

(a) EXTENSION.—The last sentence of subsection (d) of the first section of the Act entitled "An Act to authorize the establishment of the Big Thicket National Preserve in the State of Texas, and for other purposes", approved October 11, 1974 (16 U.S.C. 698(d)), is amended by striking out "two years after date of enactment" and inserting "five years after the date of enactment".

(b) INDEPENDENT APPRAISAL.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)) is further amended by adding at the end the following: "The Secretary, in considering the values of the private lands to be exchanged under this subsection, shall consider independent appraisals submitted by the owners of the private lands.".

(c) LIMITATION.—Subsection (d) of the first section of such Act (16 U.S.C. 698(d)), as amended by subsection (b), is further amended by adding at the end the following: "The authority to exchange lands under this subsection shall expire on July 1, 1998.".

(d) REPORTING REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter until the earlier of the consummation of the exchange or July 1, 1998, the Secretary of the Interior and the Secretary of Agriculture shall each submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate concerning the progress in consummating the land exchange authorized by the amendments made by Big Thicket National Preserve Addition Act of 1993 (Public Law 103–46).

(e) LAND EXCHANGE IN LIBERTY COUNTY, TEXAS.—If, within one year after the date of the enactment of this Act—

(1) the owners of the private lands described in subsection (f)(1) offer to transfer all their right, title, and interest in and to such lands to the Secretary of the Interior, and

(2) Liberty County, Texas, agrees to accept the transfer of the Federal lands described in subsection (f)(2),

the Secretary shall accept such offer of private lands and, in exchange and without additional consideration, transfer to Liberty County, Texas, all right, title, and interest of the United States in and to the Federal lands described in subsection (f)(2).

(f) LANDS DESCRIBED.—

(1) PRIVATE LANDS.—The private lands described in this paragraph are approximately 3.76 acres of lands located in Liberty County, Texas, as generally depicted on the map entitled "Big Thicket Lake Estates Access—Proposed".

(2) FEDERAL LANDS.—The Federal lands described in this paragraph are approximately 2.38 acres of lands located in Menard Creek Corridor Unit of the Big Thicket National Preserve, as generally depicted on the map referred to in paragraph (1).

(g) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands acquired by the Secretary under subsection (e) shall be added to and administered as part of the Menard Creek Corridor Unit of the Big Thicket National Preserve.

SEC. 307. LOST CREEK LAND EXCHANGE.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this section as the "Secretary") shall—

(A) acquire by exchange certain land and interests in land owned by R-Y Timber, Inc., and its affiliates, successors, and assigns (referred to in this section as the "Corporation"), located in

the Lost Creek and Twin Lakes areas of the Beaverhead-Deerlodge National Forest, Montana; and

(B)(i) convey certain land and interests in land owned by the United States and located in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest, Montana, to the Corporation; and

(ii) grant the right to harvest timber on land in the Beaverhead-Deerlodge National Forest and the Gallatin National Forest as specified in the document under paragraph (4).

(2) OFFER AND ACCEPTANCE OF LAND.—

(A) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the Secretary to approximately 17,567 acres of land owned by the Corporation and available for exchange, as depicted on the map entitled "R-Y/Forest Service Land Exchange Proposal", dated June, 1996, and described in the document under paragraph (4), the Secretary shall accept a warranty deed to the land.

(B) FEDERAL LAND.—

(i) CONVEYANCE.—On acceptance of title to the Corporation's land under subparagraph (A) and on the effective date of the document under paragraph (4), the Secretary shall—

(I) convey to the Corporation, subject to valid existing rights, by exchange deed, fee title to approximately 7,185 acres in the Beaverhead-Deerlodge National Forest; and

(II) grant to the Corporation the right to harvest approximately 6,200,000 board feet of timber on certain land in the Beaverhead-Deerlodge National Forest and approximately 4,000,000 board feet of timber on certain land in the Gallatin National Forest, collectively referred to as the harvest volume, as depicted on the map described in subparagraph (A) and subject to the terms and conditions stated in the document under paragraph (4).

(3) TIMBER HARVESTING.—

(A) IN GENERAL.—The timber harvest volume described in paragraph (2)(B)(i)(II) is in addition to, and is not intended as an offset against, the present or future planned timber sale program for the Beaverhead-Deerlodge National Forest or the Gallatin National Forest, so long as the allowable sale quantity for each national forest, respectively, is not exceeded for the planning period.

(B) SBA SHARE.—The Forest Service shall not reduce its Small Business Administration share of timber sale set-aside offerings in the Beaverhead-Deerlodge National Forest or the Gallatin National Forest by reason of the land exchange under this subsection.

(C) MINIMUM AND MAXIMUM ANNUAL HARVESTS.—

(i) IN GENERAL.—Subject to clause (ii)—

(I) not less than 20 nor more than 30 percent of the timber described in paragraph (2)(B)(i)(II) shall be made available by the end of each fiscal year over a 4- or 5-year period beginning with the first fiscal year that begins after the date of enactment of this Act; and

(II) the Corporation shall be allowed at least 3 years after the end of each fiscal year in which to complete the harvest of timber made available for that fiscal year.

(ii) EXCEPTIONAL CIRCUMSTANCES.—The timber harvest volumes specified in clause (i) shall not be required in the case of the occurrence of exceptional circumstances identified in the agreement under paragraph (4). In the case of such an occurrence that results in the making available of less than 20 percent of the timber for any fiscal year, the Secretary shall provide compensation of equal value to the Corporation in a form provided for in the agreement under paragraph (4).

(4) LAND EXCHANGE SPECIFICATION AGREEMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a document entitled "R-Y/Forest Service Land Exchange Specifications" shall be jointly developed and agreed to by the Corporation and the Secretary.

(B) DESCRIPTIONS OF LANDS TO BE EXCHANGED.—The document under subparagraph (A) shall define the non-Federal and Federal lands and interests in land to be exchanged and include legal descriptions of the lands and interests in land and an agreement to harvest timber on National Forest System land in accordance with the standard timber contract specifications, section 251.14 of title 36, Code of Federal Regulations (as in effect on the date of enactment of this Act), and any other pertinent conditions.

(C) SUBMISSION TO CONGRESS.—The document under subparagraph (A)—

(i) upon its completion shall be submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives; and

(ii) shall not take effect until 45 days after the date of submission to both committees.

(D) DESIGN AND LAYOUT.—

(i) IN GENERAL.—The Forest Service shall determine the timber sale design and layout in consultation with the Corporation.

(ii) HARVEST VOLUME.—Identification of the timber harvest volume shall be determined in accordance with Department of Agriculture standards.

(iii) MONITORING.—The Forest Service shall monitor harvest and post-harvest activities to ensure compliance with the terms and conditions of the document under subparagraph (A).

(5) CONFLICT.—In case of conflict between the map described in paragraph (2)(A) and the document under paragraph (4), the map shall control.

(b) TITLE.—

(1) REVIEW OF TITLE.—Not later than 60 days after receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal land described in subsection (a)(2)(A) and determine whether—

(A) title standards of the Department of Justice applicable to Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this section.

(2) UNACCEPTABLE QUALITY OF TITLE.—If the quality of title does not meet Federal standards and is not otherwise acceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination.

(3) CONVEYANCE OF TITLE.—The Secretary shall accept the conveyance of land described in subsection (a)(2)(A) not later than 60 days after the Secretary has made an affirmative determination of quality of title.

(c) GENERAL PROVISIONS.—

(1) MAPS AND DOCUMENTS.—

(A) IN GENERAL.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be subject to such minor corrections as may be agreed upon by the Secretary and the Corporation.

(B) PUBLIC AVAILABILITY.—The map described in subsection (a)(2)(A) and the document under subsection (a)(4) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(2) NATIONAL FOREST SYSTEM LAND.—

(A) IN GENERAL.—All land conveyed to the United States under this section shall be added to and administered as part of the Beaverhead-Deerlodge National Forest and shall be administered by the Secretary in accordance with the laws (including regulations) pertaining to the National Forest System.

(B) WILDERNESS STUDY AREA ACQUISITIONS.—Land acquired under this section that is located within the boundary of a wilderness area in existence on the date of enactment of this Act shall be included within the National Wilderness Preservation System.

(3) VALUATION.—The values of the lands and interests in land to be exchanged under this section are deemed to be equal.

(4) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States (including the departments, agencies, and employees of the United States) shall not be liable under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or any other Federal, State, or local law solely as a result of the acquisition of an interest in the land described in subsection (a)(2)(A) or because of circumstances or events occurring before the acquisition, including any release or threat of release of a hazardous substance.

(5) RELEASE FROM STUDY.—The land comprising approximately 1,320 acres in the Beaverhead-Deerlodge National Forest, as generally depicted on the map entitled "West Pioneer Study Deletion—Proposed", dated 1994, is released from study under section 2(a)(1) of the Montana Wilderness Study Act of 1977 (91 Stat. 1243).

SEC. 308. CLEVELAND NATIONAL FOREST LAND EXCHANGE.

(a) CONVEYANCE BY THE SECRETARY OF AGRICULTURE.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (b), the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall convey to the Orange County Council of the Boy Scouts of America all right, title, and interest of the United States in and to the parcel of land described in paragraph (2) located in the Cleveland National Forest. The parcel conveyed by the Secretary shall be subject to valid existing rights and to any easements that the Secretary considers necessary for public and administrative access.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) consists of not more than 60 acres of land in Section 28, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(b) CONVEYANCE BY THE BOY SCOUTS OF AMERICA.—

(1) CONVEYANCE.—In exchange for the conveyance described in subsection (a), the Orange County Council of the Boy Scouts of America shall convey to the United States all right, title, and interest to the parcel of land described in paragraph (2). The parcel conveyed under this subsection shall be subject to such valid existing rights of record as may be acceptable to the Secretary, and the title to the parcel shall conform with the title approval standards applicable to Federal land acquisitions.

(2) DESCRIPTION OF PARCEL.—The parcel of land referred to in paragraph (1) shall be approximately equal in value to the lands described in subsection (a)(2) and shall be at least the Southerly 94 acres of the Westerly ½ of Section 34, Township 9 South, Range 4 East, San Bernardino Meridian, in the unincorporated territory of San Diego County, California.

(c) BOUNDARY ADJUSTMENT.—Upon the completion of the land exchange authorized under this section, the Secretary shall adjust the boundaries of the Cleveland National Forest to exclude the parcel conveyed by the Secretary under subsection (a) and to include the parcel

obtained by the Secretary under subsection (b). For purposes of section 7 of the Land and Water Conservation Fund Act of 1964 (16 U.S.C. 460l-9), the boundary of the Cleveland National Forest, as modified by this title, shall be considered the boundary of the forest as of January 1, 1965.

(d) INCORPORATION INTO CLEVELAND NATIONAL FOREST.—Upon acceptance of title by the Secretary, the parcel obtained by the Secretary under subsection (b) shall become part of the Cleveland National Forest and shall be subject to all laws applicable to such national forest.

SEC. 309. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term "District" means the Water Conservancy District of Washington County, Utah.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) BULLOCH SITE.—The term "Bulloch Site" means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(4) SAND HOLLOW SITE.—The term "Sand Hollow Site" means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(5) QUAIL CREEK PIPELINE.—The term "Quail Creek Pipeline" means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(6) QUAIL CREEK RESERVOIR.—The term "Quail Creek Reservoir" means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(7) SMITH PROPERTY.—The term "Smith Property" means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled "Washington County Water Conservancy District Exchange Proposal" and dated May 30, 1996.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this section, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the San Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall be transferred to the United States pursuant to Utah State law.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the "Materials Act of 1947" (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under that section or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b)(1).

(d) MANAGEMENT OF LANDS ACQUIRED BY THE UNITED STATES.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1976.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4322).

(f) VALUATION OF LANDS TO BE ACQUIRED BY THE UNITED STATES IN WASHINGTON COUNTY, UTAH.—In acquiring any lands and any interests in lands in Washington County, Utah, by purchase, exchange, donation or other transfers of interest, the Secretary of the Interior shall appraise, value, and offer to acquire such lands and interests without regard to the presence of a species listed as threatened or endangered or any proposed or actual designation of such property as critical habitat for a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 310. BUREAU OF LAND MANAGEMENT AUTHORIZATION FOR FISCAL YEARS 1997 THROUGH 2002.

Section 318(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1748(a)) is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 2002".

SEC. 311. LAND EXCHANGE WITH CITY OF GREELEY, COLORADO, AND THE WATER SUPPLY AND STORAGE COMPANY.

(a) LAND EXCHANGE.—

(1) IN GENERAL.—If the city of Greeley, Colorado, and The Water Supply and Storage Company, a Colorado mutual ditch company, offer to transfer all their right, title, and interest in and to the Rockwell Ranch property and Timberline Lake property, and The Water Supply and Storage Company designated lands, all described in paragraph (2), the Secretary of Agriculture shall, in exchange for such property, transfer to the city and to the company, as they each shall designate, all right, title, and interest of the United States, including the mineral estate, in and to the Federal lands described in paragraph (3) within 12 months of the date of the city's and company's offer.

(2) CITY AND COMPANY LANDS.—

(A) The city and company lands to be exchanged under this subsection are these lands depicted on maps entitled "Rockwell Ranch Property Land Exchange" and "Timberline Lake Property" and "Cameron Pass Lands" dated July 26, 1996.

(B) The Rockwell Ranch property is comprised of 4 parcels containing approximately 520 acres of lands.

(C) The Timberline Lake Property is a parcel of approximately 10 acres located in the Comanche Peak Wilderness which shall be conveyed by quit claim deed for the purposes of eliminating any future title conflict between the city of Greeley and the United States in regard to the property.

(D) The Cameron Pass Lands consist of 2 parcels totaling approximately 178 acres owned by The Water Supply and Storage Company.

(3) FEDERAL LANDS TO BE EXCHANGED.—The Federal lands to be exchanged under this subsection are those lands depicted on the maps referred to in paragraph (2) as "Federal Exchange Lands". The total area of Federal lands to be exchanged is approximately 1,176 acres, including approximately 447 acres occupied by the city and the company under perpetual easements of the United States Department of the Interior, Numbers D-028135 and D-029149. The Federal lands to be exchanged include the following:

(A) All Federal land within the high water contour lines of the following existing reservoirs: Barnes Meadow, Chambers Lake, Comanche, Hourglass, Long Draw, Milton Seaman, Peterson Lake, and Twin Lakes, together with their dams and structures. The high water line is defined as the elevation at the dam crest of each reservoir.

(B) A surcharge and operational access area around each reservoir consisting of an average 50 foot horizontal projection from the high water line and an average 100 foot horizontal projection from the outer perimeter of all dams and appurtenant structures, including but not limited to, outlets, measuring devices, spillways, wasteways, toe drains, canals, abutments, and the Peterson Lake operations cabin, as generally depicted on such map. The access area to the east of Long Draw Reservoir will be limited to the extent necessary to convey only those lands within the boundary of the National Forest.

(C) Those Federal lands which would be occupied by an enlargement of Seaman Reservoir to an approximate capacity of 43,000 acre feet (but not to exceed 50,000 acre feet), including an average 50 foot horizontally projected buffer zone around the enlarged water line and structures, and an 80-acre parcel of Federal land south of Seaman Reservoir potentially required for a downstream damsite on the North Fork of the Cache la Poudre River, as generally depicted on such map.

(b) TERMS AND CONDITIONS RELATING TO LAND EXCHANGE.—The land exchange under subsection (a) shall be processed in accordance with Forest Service Land Exchange Regulations in part 254 of title 36, Code of Federal Regulations, subpart A subject to the direction in subsection (a) and the following terms and conditions:

(1) The United States shall grant perpetual access easements to the city of Greeley and to The Water Supply and Storage Company to the lands conveyed by the United States under subsection (a) as part of the consideration of this exchange. The United States shall reserve easements for all designated roads and trails crossing any Federal lands to be conveyed that are necessary to assure public access to adjoining National Forest lands.

(2) The city of Greeley, Colorado, and The Water Supply and Storage Company shall continue to make the following facilities accessible

to visitors to the Roosevelt National Forest: Chambers, Long Draw, Peterson, Barnes Meadow, Comanche, Seaman and Twin Lakes Reservoirs, under rules and restrictions as determined by the city and the company.

(3)(A) All special use permits and/or easements or other instruments authorizing occupancy of the Federal lands identified in subsection (a)(3) are rescinded upon completion of the exchange.

(B) The conditions specified in the December 28, 1994, and the January 4, 1995, easements for Long Draw, Peterson Lake and Barnes Meadow Reservoirs requiring a joint operations plan providing instream winter flows to the mainstream of the Cache La Poudre River from Chambers Lake and Barnes Meadow shall continue to be fulfilled regardless of land ownership unless mutually agreed otherwise.

(C) No further consultation with the United States Fish and Wildlife Service shall be required for completion of this land exchange.

(D) No additional conditions, including instream or bypass flow requirements, shall be required as a condition of this land exchange.

(4) The exchange under subsection (a) does not include any water right owned by the city of Greeley, Colorado, or The Water Supply and Storage Company, except as provided in paragraph (5).

(5) The city of Greeley's one-half interest in the following rights associated with the Rockwell Ranch property, to wit: Rockwell Ditches No. 1 in the volume of 1.2 c.f.s., No. 2 in the volume of 1.7 c.f.s., No. 3 in the volume of 2.68 c.f.s., No. 4 in the volume of 1.87 c.f.s., No. 5 in the volume of 1.95 c.f.s. and No. 6 in the volume of 2.5 c.f.s., diverting from the South Fork of the Cache la Poudre River, and its tributaries, Little Beaver Creek and the North Fork of Little Beaver Creek, and all with the appropriation date of December 31, 1888, shall be dedicated to the Colorado Water Conservation Board in perpetuity for the instream flow program of the State of Colorado upon completion of the exchange in accordance with substantive and procedural requirements of the laws of Colorado.

(6) The Federal Exchange Lands to be exchanged under subsection (a) shall be conveyed to the city of Greeley and to The Water Supply and Storage Company by means of a land exchange deed issued by an authorized officer of the United States Department of Agriculture, Forest Service, and notwithstanding any other requirements of law, the Secretary of Agriculture is authorized to conduct and approve all cadastral surveys necessary for completion of the exchange.

(7) Values of the respective lands exchanged between the United States and the city of Greeley and The Water Supply and Storage Company pursuant to subsection (a) are deemed to be of approximately equal value, without any need for cash equalization, as based on statements of value prepared by a qualified Forest Service Review Appraiser.

(8) It is recognized that some Federal lands to be conveyed to the city of Greeley and The Water Supply and Storage Company will create new holdings in otherwise consolidated areas of Federal ownership. If the city or the company decide to permanently discontinue reservoir operations on any of the properties acquired through this exchange, the United States Forest Service, Arapaho-Roosevelt National Forest Supervisor shall be advised of the intent to perform nonreconstructive breaching of the dam for purposes of permanently terminating reservoir operations. Upon such notification, the United States Forest Service will be afforded the opportunity to reacquire property at fair market value or exchange or upon such other terms and conditions as the parties may agree for a period of time not to exceed one year.

(9) The Federal lands to be exchanged under subsection (a), with the exception of the Seaman Reservoir enlargement area and potential new damsite below Seaman Reservoir on the North Fork of the Cache la Poudre River, are already fully developed and authorized for occupancy by the city of Greeley and The Water Supply and Storage Company. Therefore, this land exchange may be completed without further inventory or consultation under the National Historic Preservation Act. Should the city of Greeley seek enlargement of Seaman Reservoir or construction of a new dam on the North Fork of the Poudre River below Seaman Reservoir for a Seaman Reservoir Enlargement, the site will be subject to all Federal statutes and regulations applicable at the time of proposed construction.

(10) The Forest Service shall grant a 20-year easement to the city of Greeley for use of the existing cabin in the north half of the southwest quarter of Section 30, Township 8 North, Range 72 West. The easement shall allow the use of the cabin, other improvements, and access to the forest lands nearby. The access road shall be available for city employees to access the cabin for recreational purposes and to the United States Forest Service for administrative purposes.

(11) The Forest Service shall grant a 20-year easement to the city of Greeley for use of approximately 1 acre of land under the existing cabin in the vicinity of Jacks Gulch Campground on Pingree Road as depicted on the attached map. The easement shall include the administrative use of the access road to the cabin and the reservation of the use of the cabin to those permitted under the existing special use permit.

(c) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The Rockwell Ranch, Timberline Lake, and Cameron Pass Lands acquired by the United States under this section shall be added to and administered as part of the Roosevelt National Forest. Those portions of such property located within a wilderness area shall be added to and administered as part of the wilderness area.

(d) BOUNDARY MODIFICATION OF THE ARAPAHO NATIONAL FOREST AND ROOSEVELT NATIONAL FOREST.—

(1) IN GENERAL.—In order to provide for more efficient administration of certain Federal lands adjoining the Arapaho National Forest and Roosevelt National Forest, the exterior boundary of the Arapaho Forest is hereby modified as shown on Department of Agriculture, Forest Service map entitled "Boundary Modification, Arapaho National Forest" dated December 22, 1991, and the exterior boundary of the Roosevelt Forest is hereby modified as shown on Department of Agriculture, Forest Service map entitled "Boundary Modification, Roosevelt National Forest", dated August 15, 1995. The maps and a legal description of the boundary changes shall be on file and available for public inspection in the offices of the Chief of the Forest Service and appropriate field offices.

(2) ADMINISTRATION.—All Federal lands brought within the boundary of the Arapaho National Forest and Roosevelt National Forest by this section are hereby added to the Arapaho National Forest and Roosevelt National Forest, respectively, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(3) AVAILABILITY OF CERTAIN LANDS.—For the purpose of section 7 of the Land and Water Conservation Act of 1965 (16 U.S.C. 4601-9), the boundary of the Arapaho National Forest and Roosevelt National Forest, as modified by this subsection, shall be treated as if it were the boundary of that forest as of January 1, 1965.

SEC. 312. GATES OF THE ARCTIC NATIONAL PARK AND PRESERVE LAND EXCHANGE AND BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND EXCHANGE AUTHORITY: KILLIK RIVER ECOSYSTEM.—(1) The Secretary of the Interior (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange certain lands which have been or may hereafter be conveyed to the Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act and the State of Alaska pursuant to the Alaska Statehood Act. These lands consist of—

(A) approximately 1,270,000 acres of Arctic Slope Regional Corporation lands and are depicted on a map entitled "Arctic Slope Regional Corporation Killik River Ecosystem Lands", dated July 1996, appended to which is a legal description of such lands; and

(B) up to 1,270,000 acres selected by the State of Alaska pursuant to the Alaska Statehood Act, consisting of—

(i) approximately 750,000 acres of State of Alaska lands in the Killik River Ecosystem which are depicted on a map entitled "Study of Potential Addition of State of Alaska and Other Lands, by Exchange, to the Gates of the Arctic Park"; and

(ii) the remainder being other State of Alaska lands which are acceptable to the Secretary.

The Killik River Ecosystem map and the Study of Potential Addition map are on file at the Alaska Regional Office of the National Park Service and the offices of the Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(2) The private lands described in subparagraphs (A) and (B)(i) of paragraph (1) may be acquired for addition to the Gates of the Arctic National Preserve with the consent of the owners, the Arctic Slope Regional Corporation, or the State of Alaska, respectively. Upon acquisition by the Secretary, such lands shall become, and be administered as, a part of Gates of the Arctic National Preserve to the same extent as if the lands were included within the boundaries of the Preserve by the provisions of section 201(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(b) ACQUISITION AND EXCHANGE AUTHORITY: OGOTORUK CREEK LANDS CONTAMINATED BY UNDISCLOSED NUCLEAR TESTING.—(1) The Secretary of the Interior is authorized to acquire by exchange certain additional lands which have been or may hereafter be conveyed to the Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act. These lands consist of approximately 204,860 acres and are depicted on a map entitled "Arctic Slope Regional Corporation Ogotoruk Creek Lands Contaminated by Undisclosed Nuclear Testing", dated July 1996, appended to which is a legal description of such lands. The Ogotoruk Creek Lands map is on file at the Alaska State Office of the Bureau of Land Management.

(2) The lands described in paragraph (1) were selected by the Arctic Slope Regional Corporation under the Alaska Native Claims Settlement Act for use as a transportation corridor, without any disclosure by the Department of the Interior that the southern portion of these lands had been the subject of nuclear tests conducted by the United States prior to selection by the Arctic Slope Regional Corporation. The Arctic Slope Regional Corporation selected these lands with no knowledge of the nuclear tests that had been conducted on these lands, and the Inupiat Eskimo shareholders of the Arctic Slope Regional Corporation believe that the radiation tests have caused physical injury to some of the shareholders, and therefore desire to exchange these lands. The private lands described in paragraph (1) may be acquired by the Secretary with the consent of the Arctic Slope Regional Corporation. Upon acquisition by the Secretary, such lands shall become public lands except that, to the extent such lands are located within the exterior boundaries of the Alaska Maritime National Wildlife Refuge—Chukchi Sea Unit, such

lands shall become, and be administered by the Secretary as, a part of such unit of the National Wildlife Refuge System.

(c) OTHER LANDS.—To facilitate the exchanges authorized by this section, the Secretary is authorized to make available to the Arctic Slope Regional Corporation and to the State of Alaska lands, or interests therein, from public lands within the 23,000,000 acre National Petroleum Reserve-Alaska. The Arctic Slope Regional Corporation was precluded from making land selections, under the terms of the Alaska Native Claims Settlement Act, from the National Petroleum Reserve-Alaska. The State of Alaska was precluded from making land selections, under the terms of the Alaska Statehood Act, from the National Petroleum Reserve-Alaska. Since 1980, the Federal policy with respect to the National Petroleum Reserve-Alaska has been changed, and this area has been opened to oil and gas leasing.

(d) WITHDRAWAL.—(1) To facilitate the land exchanges authorized by this section, the Secretary is authorized to withdraw, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, lands identified for acquisition through an exchange under this section by written notices submitted no later than 120 days after enactment of this Act, to the Secretary by the Arctic Slope Regional Corporation and the State of Alaska.

(2) The Arctic Slope Regional Corporation is authorized to identify by notice for withdrawal pursuant to paragraph (1) not more than twice the number of acres of private land identified for exchange in subsections (a) and (b).

(3) The State of Alaska is authorized to identify by notice for withdrawal pursuant to paragraph (1) not more than twice the number of acres of State of Alaska land identified for exchange in subsection (a).

(4) In the event of any overlap of lands identified for withdrawal and potential acquisition by the Arctic Slope Regional Corporation and the State of Alaska, the Secretary shall request an identification by the Arctic Slope Regional Corporation of one township of land (23,040 acres) within the area of overlap and such township shall be available only for acquisition by the Arctic Slope Regional Corporation. Thereafter, the Secretary shall request an identification by the State of Alaska of one township of land within the area of overlap and such township shall be available only for acquisition by the State of Alaska. Thereafter, the Secretary shall request alternating identifications by the Arctic Slope Regional Corporation and by the State of Alaska of one township of land within the area of overlap until all lands within the area of overlap shall have been identified by either the Arctic Slope Regional Corporation or the State of Alaska.

(5) The withdrawal of lands required pursuant to paragraph (1) shall terminate either upon the consummation of land exchanges with the Arctic Slope Regional Corporation and the State of Alaska or upon the expiration of a period of 3 years from the date of the withdrawal, whichever first occurs: Provided, That the Secretary may terminate the withdrawal of any lands withdrawn under this subsection whenever the Secretary and the party identifying such lands for withdrawal mutually agree to exclude such lands from further consideration for exchange under this section; and, Provided further, That the Secretary may conduct activities preparatory to leasing oil and gas on lands withdrawn pursuant to this subsection.

(e) OTHER LAWS.—Land exchanges authorized under this section shall be consummated in accordance with the provisions of this section, section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1621(f)), and section 1302(h) of the Alaska National Interest Lands Conservation Act, and all of the lands, or interests therein, conveyed to and received by the Arctic Slope Regional Corporation pursuant to an exchange authorized by subsections (a) and (b) of this section shall be deemed conveyed and received pursuant to an exchange under section 22(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601, 1621(f)).

(f) OTHER USES.—Subsistence, cultural, traditional, and other uses of the Arctic Slope Regional Corporation's shareholders and local residents on the lands to be acquired under subsections (a) and (b) shall continue to be permitted.

(g) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

SEC. 313. KENAI NATIVES ASSOCIATION LAND EXCHANGE.

(a) PURPOSE.—The purpose of this section is to authorize and direct the Secretary, at the election of the Kenai Natives Association, to complete the conveyances provided for in this section.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "ANCSA" means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.);

(3) the term "conservation system unit" has the same meaning as in section 102(4) of ANILCA (16 U.S.C. 3102 (4));

(4) the term "CIRI" means Cook Inlet Region, Inc., a Native Regional Corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(5) the term "EVOS" means the Exxon Valdez oil spill;

(6) the term "KNA" means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

(7) the term "lands" means any lands, waters, or interests therein;

(8) the term "Refuge" means the Kenai National Wildlife Refuge;

(9) the term "Secretary" means the Secretary of the Interior;

(10) the term "Service" means the United States Fish and Wildlife Service; and

(11) the term "Terms and Conditions" means the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified on August 31, 1976, ratified by section 12 of Public Law 94-204 (43 U.S.C. 1611 note).

(c) ACQUISITION OF LANDS.—

(1) OFFER TO KNA.—

(A) IN GENERAL.—Subject to the availability of funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this Act, the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), subject to valid existing rights, in turn for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA's acceptance of the entire conveyance outlined herein.

(B) LIMITATION.—The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this section has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255).

(2) ACQUISITION LANDS.—

(A) LANDS TO BE CONVEYED TO THE UNITED STATES.—The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

(i) The conveyance of approximately 803 acres located along and on islands within the Kenai River, known as the Stephanka Tract.

(ii) The conveyance of approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract.

(iii) The relinquishment of—

(I) KNA's selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River;

(II) KNA's remaining ANCSA entitlement of approximately 454 acres; and

(III) all KNA's remaining over selections.

Upon completion of all relinquishments specified in this paragraph, all KNA's entitlement shall be deemed to be extinguished and the completion of this acquisition shall satisfy all KNA's ANCSA acreage entitlement.

(iv) The conveyance of an access easement providing the United States and its assigns access across KNA's surface estate in SW¼ of section 21, T.6N., R.9W., Seward Meridian, Alaska.

(v) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

(B) LANDS TO BE CONVEYED TO KNA.—The rights provided or lands to be conveyed by the United States to KNA, are the following:

(i) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the City of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2934, and known as the old Fish and Wildlife Service Headquarters site.

(ii) The remaining subsurface estate held by the United States to approximately 13,811 acres, including portions of the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this section. The conveyance of these subsurface interests shall be subject to the rights and obligations of CIRI to the coal, oil, and gas, and to all rights and obligations of CIRI, its successors, and assigns would have under paragraph 1(B) of the Terms and Conditions, including the right to sand and gravel, to construct facilities, to have rights-of-way, and to otherwise develop its subsurface interests.

(iii)(I) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

(II) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

(iv) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW¼ section 21, T.6N., R.9W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under subsection (d)(1)(A).

The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

(v) The surface estate of approximately 280 acres known as the Beaver Creek Selected Tract. This tract shall be conveyed to KNA in exchange for lands conveyed to the Unite States as described in paragraph (2)(A)(ii).

(C) PAYMENT.—The United States shall make a total cash payment to KNA for the above-described lands described in subparagraph (B) of $4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

(D) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the acquisition authorized in paragraph (1)(A), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena'ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena'ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines to operate such a site, the Department may do so under its existing authorities. Prior to the Department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

(d) GENERAL PROVISIONS.—

(1) REMOVAL OF KNA LANDS FROM THE NATIONAL WILDLIFE REFUGE SYSTEM.—

(A) IN GENERAL.—Effective on the date of closing for the Acquisition Lands identified in subsection (c)(2)(B), all lands retained by or conveyed to KNA pursuant to this section, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with subsection (b)(2)(B) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this section, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

(B) AGREEMENT.—(i) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section which preserves CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI's obligations under such paragraph, and adequately addresses management issues associated with the boundary adjustment set forth in this section and with the differing interests in land resulting from enactment of this section.

(ii) In the event that no agreement is executed as provided for in clause (i), solely for the purposes of administering CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI's subsurface interests under the requirements of the terms and Conditions in effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this section, conveyances to KNA shall be deemed to remain subject to the Secretary's and CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

(C) AUTHORIZATION.—The Secretary is authorized to acquire by purchase or exchange, on a willing seller basis only, any lands retained by or conveyed to KNA. In the event that any lands owned by KNA are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

(D) CERTAIN CIRI AND KNA RIGHTS.—Nothing in this section is intended to enlarge or diminish the authorities, rights, duties, obligations, or the property rights held by CIRI under the Terms and Conditions, or otherwise except as set forth in this section. In the event of the purchase by the United States of any lands from KNA in accordance with subsection (c)(1)(C), the United States shall reassume from KNA the rights it previously held under the Terms and Conditions and the provisions in any patent implementing section 22(g) of ANCSA will again apply.

(E) CERTAIN IN-LIEU SUBSURFACE ENTITLEMENT.—By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

(e) MAPS AND LEGAL DESCRIPTIONS.—Maps and a legal description of the lands described above in subsection (c)(2) shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this section, prepare a legal description of the lands described in subsection (c)(2)(A)(v). Such maps and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors.

(f) ACCEPTANCE.—KNA may accept the offer made in this section by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(g) FINAL MAPS.—Not later than 120 days after the conclusion of the acquisition authorized by subsection (c), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(h) ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.—Upon acquisition of lands by the United States pursuant to subsection (c)(2)(A), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

(i) DESIGNATION OF LAKE TODATONEN SPECIAL MANAGEMENT AREA.—To offset the removal of KNA lands from the Refuge System, the Secretary is hereby authorized to withdraw, subject to valid existing rights, and to create as a special management unit for uses other than Wilderness, including the protection of fish, wildlife, and habitat, certain unappropriated and unreserved public lands, totaling approximately 15,500 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be known as the "Lake Todatonten Special Management Area", from the 37,000 acres as depicted on the map entitled Proposed: Lake Todatonten Special Management Area, dated June 13, 1996, and to be managed by the Bureau of Land Management. Such withdrawal shall not include any validly selected land by the State of Alaska or Alaska Native Corporation or any lands that the Secretary determines has mineral potential based on surveys conducted or to be conducted by the United States Geological Survey. Such withdrawals shall not occur, however, until the Secretary has complied with the requirements of subparagraphs (1) through (12) of paragraph 204(c)(2) of FLPMA. The Secretary may study the remaining lands within the area depicted on the map for future potential withdrawal pursuant to section 204 of FLPMA.

(j) MANAGEMENT.—

(1) Such designation is subject to all valid existing rights including R.S. 2477 Rights-of-Way, as well as the subsistence preferences provided under title VIII of ANILCA.

(2)(A) The BLM shall establish the Lake Todatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

(i) Two residents each from the villages of Alatna, Allakaket, Hughes, and Tanana.

(ii) One representative from each of Doyon Corporation, the Tanana Chiefs Conference, and the State of Alaska.

(B) Members of the Committee shall serve without pay.

(C) The BLM shall hold meetings of the Lake Todatonten Special Management Area Committee at least once per year to discuss management issues within the Special Management Area. The BLM shall not allow any new type of activity in the Special Management Area without first conferring with the Committee in a timely manner.

(k) ACCESS.—The Secretary shall allow the following:

(1) Private access for any purpose, including economic development, to lands within the boundaries of the Special Management Area which are owned by third parties or are held in trust by the Secretary for third parties pursuant to the Alaska Native Allotment Act (25 U.S.C. 336). Such rights may be subject to restrictions issued by the BLM to protect subsistence uses of Special Management Area.

(2) Section 1110 of ANILCA shall apply to the Special Management Area.

(l) SECRETARIAL ORDER AND MAPS.—The Secretary shall file with the Committee on Resources of the United States House of Representatives and the Committee and Energy and Natural Resources of the United States Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this section. Once established, this Order may only be amended or revoked by Act of Congress.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE IV—RIVERS AND TRAILS

SEC. 401. CACHE LA POUDRE CORRIDOR.

(a) PURPOSE.—The purpose of this section is to designate the Cache La Poudre Corridor within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(b) DEFINITIONS.—As used in this section:

(1) COMMISSION.—The term "Commission" means the Cache La Poudre Corridor Commission established by subsection (f)(1).

(2) CORRIDOR.—The term "Corridor" means the Cache La Poudre Corridor established by section 401(c).

(3) GOVERNOR.—The term "Governor" means the Governor of the State of Colorado.

(4) PLAN.—The term "Plan" means the interpretation plan prepared by the Commission pursuant to subsection (j)(1).

(5) POLITICAL SUBDIVISION OF THE STATE.—The term "political subdivision of the State" means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Corridor, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre Corridor.

(d) BOUNDARIES.—The boundaries of this Corridor shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along said floodplain to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, COLORADO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Corridor.

(e) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer Country, the city of Greeley, and Weld County.

(f) ESTABLISHMENT OF THE CACHE LA POUDRE CORRIDOR COMMISSION.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established the Cache La Poudre Corridor Commission.

(B) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Corridor.

(2) MEMBERSHIP.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(iv) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(I) 1 member shall represent the city of Fort Collins;

(II) 2 members shall represent Larimer County, 1 of which shall represent agriculture or irrigated water interests;

(III) 1 member shall represent the city of Greeley;

(IV) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(V) 1 member shall represent the city of Loveland; and

(v) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(I) represent the general public;

(II) be citizens of the State; and

(III) reside within the Area.

(3) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under clauses (iiii), (iv), or (v) of subparagraph (A). The chairperson shall be elected for a 2-year term.

(4) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(5) TERMS OF SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(B) INITIAL MEMBERS.—The initial members of the Commission first appointed under paragraph (2)(A) shall be appointed as follows:

(i) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(I) The representative of the Secretary of the Interior.

(II) 1 representative of Weld County.

(III) 1 representative of Larimer County.

(IV) 1 representative of the city of Loveland.

(V) 1 representative of the general public.

(ii) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

(I) The representative of the Forest Service.

(II) The representative of the State.

(III) The representative of Colorado State University.

(IV) The representative of the Northern Colorado Water Conservancy District.

(iii) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

(I) 1 representative of the city of Fort Collins.

(II) 1 representative of Larimer County.

(III) 1 representative of the city of Greeley.

(IV) 1 representative of Weld County.

(V) 1 representative of the general public.

(C) PARTIAL TERMS.—

(i) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(ii) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(6) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(7) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(g) STAFF OF THE COMMISSION.—

(1) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(A) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(i) shall be appointed without regard to the civil service laws and regulations; and

(ii) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(2) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that 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 such title.

(3) STAFF OF OTHER AGENCIES.—

(A) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(B) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(C) STATE.—The Commission may—

(i) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(ii) reimburse the State, State agency, or political subdivision of the State for such services.

(h) POWERS OF THE COMMISSION.—

(1) HEARINGS.—

(A) IN GENERAL.—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 necessary to carry out this title.

(B) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(2) MAILS.—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.

(3) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(4) GIFTS.—

(A) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(5) REAL PROPERTY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission may not acquire real property or an interest in real property.

(B) EXCEPTION.—Subject to subparagraph (C), the Commission may acquire real property in the Corridor, and interests in real property in the Corridor—

(i) by gift or device;

(ii) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(iii) by exchange.

(C) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under subparagraph (B) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(i) as soon as practicable after acquisition;

(ii) without consideration; and

(iii) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(6) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(7) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(8) MODIFICATION OF PLANS.—

(A) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this section.

(B) NOTICE.—No modification shall take effect until—

(i) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(ii) if the modification is significant, as determined by the Commission, the Commission has—

(I) provided adequate notice of the modification by publication in the area of the Corridor; and

(II) conducted a public hearing with respect to the modification; and

(III) the Governor has approved the modification.

(i) DUTIES OF THE COMMISSION.—

(1) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with subsection (j).

(2) MEETINGS.—

(A) TIMING.—

(i) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(ii) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly .

(B) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(3) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit to the Secretary and to the Governor, an annual report concerning the Commission's activities.

(j) PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.—

(1) PREPARATION OF PLAN.—

(A) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor an Interpretation Plan.

(B) DEVELOPMENT.—In developing the Plan, the Commission shall—

(i) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(ii) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(C) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(i) shall recognize any existing Federal, State, and local plans;

(ii) shall not interfere with the implementation, administration, or amendment of such plans; and

(iii) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Corridor.

(2) REVIEW OF PLAN.—

(A) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(B) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(C) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(i) public participation; and

(ii) the Plan in interpreting, for the educational and inspirational benefit of present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Corridor.

(3) DISAPPROVAL OF PLAN.—

(A) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(B) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(C) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(4) IMPLEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(A) CULTURAL RESOURCES.—

(i) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Corridor.

(ii) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Corridor.

(B) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Corridor—

(i) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(ii) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(C) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Corridor with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(D) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Corridor—

(i) by consulting with the Secretary with respect to the implementation of the Secretary's duties under subsection (l);

(ii) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Corridor;

(iii) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Corridor, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens; and

(iv) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Corridor.

(E) RECOGNITION.—The Commission shall assist in establishing recognition for the Corridor by actively promoting the cultural, historical, natural, and recreational resources of the Corridor on a community, regional, statewide, national, and international basis.

(F) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Corridor.

(k) TERMINATION OF TRAVEL EXPENSES PROVISION.—Effective on the date that is 5 years after the date on which the Secretary approves the Plan, members of the Commission may no longer receive reimbursement for travel expenses.

(l) DUTIES OF THE SECRETARY.—

(1) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Corridor that have been specifically identified by the Commission for acquisition by the Federal Government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(2) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to subsection (j).

(3) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under subsection (i).

(m) OTHER FEDERAL ENTITIES.—

(1) DUTIES.—Subject to subsection (a), a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Corridor, or the natural resources of the Corridor shall consult with the Commission with respect to such activities;

(2) AUTHORIZATION.—

(A) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Corridor by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: Provided, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Corridor is established.

(B) AUTHORIZATION TO CONVEY PROPERTY.—The Federal Property and Administrative Services Act of 1949 shall not apply to any property within the State of Colorado for the Cache La Poudre Corridor.

(n) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.—

(1) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(A) VOLUNTARY COOPERATION.—In carrying out this section, the Commission and Secretary shall emphasize voluntary cooperation.

(B) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this section shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Corridor not been established.

(C) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this section shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Corridor not been established.

(D) WATER STANDARDS.—Nothing in this section shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Corridor, that is more restrictive than those that would be applicable had the Corridor not been established.

(E) PERMITTING OF FACILITIES.—Nothing in the establishment of the Corridor shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Corridor.

(F) WATER FACILITIES.—Nothing in the establishment of the Corridor shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(G) WATER AND WATER RIGHTS.—Nothing in the establishment of the Corridor shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(2) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this section shall be construed to vest in the Commission or the Secretary the authority to—

(A) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the title;

(B) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to land use regulation; environmental quality; licensing; permitting; easements; private land development; or other occupational or access issue;

(C) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(i) land use regulation;

(ii) environmental quality; or

(iii) pipeline or utility crossings;

(D) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(E) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;

(F) vest authority to reserve or appropriate water or water rights in any entity for any purpose;

(G) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(H) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the State.

(3) SAVINGS PROVISION.—Nothing in this section shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(A) to exercise civil and criminal jurisdiction within the Corridor; or

(B) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Corridor.

(4) ACCESS TO PRIVATE PROPERTY.—Nothing in this section requires an owner of private property to allow access to the property by the public.

(o) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this section.

(2) MATCHING FUNDS.—Funds may be made available pursuant to this subsection only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

SEC. 402. RIO PUERCO WATERSHED.

(a) MANAGEMENT PROGRAM.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(A) in consultation with the Rio Puerco Management Committee established by subsection (b)—

(i) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994, including—

(I) current and historical natural resource conditions; and

(II) data concerning the extent and causes of watershed impairment; and

(ii) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, as depicted on the map entitled "the Rio Puerco Watershed" dated June 1994; and

(B) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(2) RIO PUERCO MANAGEMENT REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in paragraph (1)(A).

(B) CONTENTS.—The report under subparagraph (A) shall—

(i) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(ii) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(iii) recommend voluntary implementation of appropriate best management practices on public and private lands;

(iv) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(v) provide for the development of public participation and community outreach programs that would include proposals for—

(I) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(II) Involvement of private citizens in restoring the watershed;

(vi) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(vii) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(viii) provide for the development of proposals for a monitoring system that—

(I) builds on existing data available from private, Federal, and State sources;

(II) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(III) will provide information to assess existing resource and socioeconomic conditions; identify priority implementation actions; and assess the effectiveness of actions taken.

(b) RIO PUERCO MANAGEMENT COMMITTEE.—

(1) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(2) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(A) the Rio Puerco Watershed Committee;

(B) affected tribes and pueblos;

(C) the National Forest Service of the Department of Agriculture;

(D) the Bureau of Reclamation;

(E) the United States Geological Survey;

(F) the Bureau of Indian Affairs;

(G) the United States Fish and Wildlife Service;

(H) the Army Corps of Engineers;

(I) the Natural Resources Conservation Service of the Department of Agriculture;

(J) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(K) affected local soil and water conservation districts;

(L) the Elephant Butte Irrigation District;

(M) private landowners; and

(N) other interested citizens.

(3) DUTIES.—The Rio Puerco Management Committee shall—

(A) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in subsection (a); and

(B) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in subsection (a)

(4) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

(c) REPORT.—Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under subsection (a); and

(2) proposals for joint implementation efforts, including funding recommendations.

(d) LOWER RIO GRANDE HABITAT STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(A) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(B) may cover a greater distance.

(2) CONTENTS.—The study under paragraph (1) shall include—

(A) a survey of the current habitat conditions of the river and its riparian environment;

(B) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(C) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(3) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary of the Interior shall transmit the study under paragraph (1) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

SEC. 403. OLD SPANISH TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah.".

SEC. 404. GREAT WESTERN SCENIC TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"( ) The Great Western Scenic Trail, a system of trails to accommodate a variety of travel users in a corridor of approximately 3,100 miles in length extending from the Arizona-Mexico border to the Idaho-Montana-Canada border, following the approximate route depicted on the map identified as 'Great Western Trail Corridor, 1988', which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture. The trail study shall be conducted by the Secretary of Agriculture, in consultation with the Secretary of the Interior, in accordance with subsection (b) and shall include—

"(A) the current status of land ownership and current and potential use along the designated route;

"(B) the estimated cost of acquisition of lands or interests in lands, if any; and

"(C) an examination of the appropriateness of motorized trial use along the trail.".

SEC. 405. RS 2477.

No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act.

SEC. 406. HANFORD REACH PRESERVATION.

Section 2 of Public Law 100-605 is amended as follows:

(1) By striking "interim" in the section heading.

(2) By striking "For a period of eight years after" and inserting "After" in subsection (a).

(3) By striking in subsection (b) "During the eight year interim protection period, provided by this section, all" and inserting "All".

SEC. 407. LAMPREY WILD AND SCENIC RIVER.

(a) DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"(157) LAMPREY RIVER, NEW HAMPSHIRE.—The 11.5-mile segment extending from the southern Lee town line to the confluence with the Piscassic River in the vicinity of the Durham-Newmarket town line (hereinafter in this paragraph referred to as the 'segment') as a recreational river. The segment shall be administered by the Secretary of the Interior through cooperative agreements between the Secretary and the State of New Hampshire and its relevant political subdivisions, namely the towns of Durham, Lee, and Newmarket, pursuant to section 10(e) of this Act. The segment shall be managed in accordance with the Lamprey River Management Plan dated January 10, 1995, and such amendments thereto as the Secretary of the Interior determines are consistent with this Act. Such plan shall be deemed to satisfy the requirements for a comprehensive management plan pursuant to section 3(d) of this Act.".

(b) MANAGEMENT.—

(1) COMMITTEE.—The Secretary of the Interior shall coordinate his management responsibilities under this Act with respect to the segment designated by subsection (a) with the Lamprey River Advisory Committee established pursuant to New Hampshire RSA 483.

(2) LAND MANAGEMENT.—The zoning ordinances duly adopted by the towns of Durham, Lee, and Newmarket, New Hampshire, including provisions for conservation of shorelands, floodplains, and wetlands associated with the segment, shall be deemed to satisfy the standards and requirements of section 6(c) of the Wild and Scenic Rivers Act, and the provisions of that section, which prohibit Federal acquisition of lands by condemnation, shall apply to the segment designated by subsection (a). The authority of the Secretary to acquire lands for the purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof, and shall be subject to the additional criteria set forth in the Lamprey River Management Plan.

(c) UPSTREAM SEGMENT.—Upon request by the town of Epping, which abuts an additional 12 miles of river found eligible for designation as a recreational river, the Secretary of the Interior shall offer assistance regarding continued involvement of the town of Epping in the implementation of the Lamprey River Management Plan and in consideration of potential future addition of that portion of the river within Epping as a component of the Wild and Scenic Rivers System.

SEC. 408. WEST VIRGINIA NATIONAL RIVERS AMENDMENTS OF 1996.

(a) AMENDMENTS PERTAINING TO THE NEW RIVER GORGE NATIONAL RIVER.—

(1) BOUNDARIES.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C.

460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028A, dated March 1996".

(2) FISH AND WILDLIFE MANAGEMENT.—Section 1106 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–20) is amended by adding the following at the end thereof: "The Secretary shall permit the State of West Virginia to undertake fish stocking activities carried out by the State, in consultation with the Secretary, on waters within the boundaries of the national river. Nothing in this Act shall be construed as affecting the jurisdiction of the State of West Virginia with respect to fish and wildlife.".

(3) CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15 and following) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

"(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

"(b) REMNANT LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to tracts of land only partially within the Gauley River National Recreation Area.".

(b) VISITOR CENTER.—The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

(c) AMENDMENTS PERTAINING TO THE GAULEY RIVER NATIONAL RECREATION AREA.—

(1) TECHNICAL AMENDMENT.—Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c)) is amended by adding the following at the end thereof: "If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.".

(2) GAULEY ACCESS.—Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)) is amended by adding the following new paragraph at the end thereof:

"(4) ACCESS TO RIVER.—(A) In order to facilitate public safety, use, and enjoyment of the recreation area, and to protect, to the maximum extent feasible, the scenic and natural resources of the area, the Secretary is authorized and directed to acquire such lands or interests in lands and to take such actions as are necessary to provide access by noncommercial entities on the north side of the Gauley River at the area known as Woods Ferry utilizing existing roads and rights-of-way. Such actions by the Secretary shall include the construction of parking and related facilities in the vicinity of Woods Ferry for noncommercial use on lands acquired pursuant to paragraph (3) or on lands acquired with the consent of the owner thereof within the boundaries of the recreation area.

"(B) If necessary, in the discretion of the Secretary, in order to minimize environmental impacts, including visual impacts, within portions of the recreation area immediately adjacent to the river, the Secretary may, by contract or otherwise, provide transportation services for noncommercial visitors, at reasonable cost, between such parking facilities and the river.

"(C) Nothing in subparagraph (A) shall affect the rights of any person to continue to utilize, pursuant to a lease in effect on April 1, 1993, any right of way acquired pursuant to such lease which authorizes such person to use an existing road referred to in subparagraph (A). Except as provided under paragraph (2) relating to access immediately downstream of the Summersville project, until there is compliance with this paragraph the Secretary is prohibited from acquiring or developing any other river access points within the recreation area.".

(d) AMENDMENTS PERTAINING TO THE BLUESTONE NATIONAL SCENIC RIVER.—

(1) BOUNDARIES.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987" and inserting "BLUE–80,005, dated May 1996".

(2) PUBLIC ACCESS.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by adding the following at the end thereof: "In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire not more than 10 acres of lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.".

SEC. 409. TECHNICAL AMENDMENT TO THE WILD AND SCENIC RIVERS ACT.

(a) NUMBERING OF PARAGRAPHS.—The unnumbered paragraphs in section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), relating to each of the following river segments, are each amended by numbering such paragraphs as follows:

River:	Paragraph Number
East Fork of Jemez, New Mexico	(109)
Pecos River, New Mexico	(110)
Smith River, California	(111)
Middle Fork Smith River, California	(112)
North Fork Smith River, California	(113)
Siskiyou Fork Smith River, California	(114)
South Fork Smith River, California	(115)
Clarks Fork, Wyoming	(116)
Niobrara, Nebraska	(117)
Missouri River, Nebraska and South Dakota	(118)
Bear Creek, Michigan	(119)
Black, Michigan	(120)
Carp, Michigan	(121)
Indian, Michigan	(122)
Manistee, Michigan	(123)
Ontonagon, Michigan	(124)
Paint, Michigan	(125)
Pine, Michigan	(126)
Presque Isle, Michigan	(127)
Sturgeon, Hiawatha National Forest, Michigan	(128)
Sturgeon, Ottawa National Forest, Michigan	(129)
East Branch of the Tahquamenon, Michigan	(130)
Whitefish, Michigan	(131)
Yellow Dog, Michigan	(132)
Allegheny, Pennsylvania	(133)
Big Piney Creek, Arkansas	(134)
Buffalo River, Arkansas	(135)
Cossatot River, Arkansas	(136)
Hurricane Creek, Arkansas	(137)
Little Missouri River, Arkansas	(138)
Mulberry River, Arkansas	(139)
North Sylamore Creek, Arkansas	(140)
Richland Creek, Arkansas	(141)
Sespe Creek, California	(142)
Sisquoc River, California	(143)
Big Sur River, California	(144)
Great Egg Harbor River, New Jersey	(145)
The Maurice River, Middle Segment	(146)
The Maurice River, Middle Segment	(147)
The Maurice River, Upper Segment	(148)
The Menantico Creek, Lower Segment	(149)
The Menantico Creek, Upper Segment	(150)
Manumuskin River, Lower Segment	(151)
Manumuskin River, Upper Segment	(152)
Muskee Creek, New Jersey	(153)
Red River, Kentucky	(154)
Rio Grande, New Mexico	(155)
Farmington River, Connecticut	(156)

(b) STUDY RIVERS.—Section 5(a) of such Act is amended as follows:

(1) Paragraph (106), relating to St. Mary's, Florida, is renumbered as paragraph (108).

(2) Paragraph (112), relating to White Clay Creek, Delaware and Pennsylvania, is renumbered as paragraph (113).

(3) The unnumbered paragraphs, relating to each of the following rivers, are amended by numbering such paragraphs as follows:

River:	Paragraph Number
Mills River, North Carolina	(109)
Sudbury, Assabet, and Concord, Massachusetts	(110)
Niobrara, Nebraska	(111)
Lamprey, New Hampshire	(112)
Brule, Michigan and Wisconsin	(114)
Carp, Michigan	(115)
Little Manistee, Michigan	(116)
White, Michigan	(117)
Ontonagon, Michigan	(118)
Paint, Michigan	(119)
Presque Isle, Michigan	(120)
Sturgeon, Ottawa National Forest, Michigan	(121)
Sturgeon, Hiawatha National Forest, Michigan	(122)
Tahquamenon, Michigan	(123)
Whitefish, Michigan	(124)
Clarion, Pennsylvania	(125)
Mill Creek, Jefferson and Clarion Counties, Pennsylvania	(126)
Piru Creek, California	(127)
Little Sur River, California	(128)
Matilija Creek, California	(129)
Lopez Creek, California	(130)
Sespe Creek, California	(131)
North Fork Merced, California	(132)
Delaware River, Pennsylvania and New Jersey	(133)
New River, West Virginia and Virginia	(134)
Rio Grande, New Mexico	(135)

SEC. 410. PROTECTION OF NORTH ST. VRAIN CREEK, COLORADO.

(a) NORTH ST. VRAIN CREEK AND ADJACENT LANDS.—The Act of January 26, 1915, establishing Rocky Mountain National Park (38 Stat. 798; 16 U.S.C. 191 and following), is amended by adding the following new section at the end thereof:

"SEC. 5. NORTH ST. VRAIN CREEK AND ADJACENT LANDS.

"Neither the Secretary of the Interior nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of North St. Vrain Creek or its tributaries within the boundaries of Rocky Mountain National Park or on

the main stem of North St. Vrain Creek downstream to the point at which the creek crosses the elevation 6,550 feet above mean sea level. Nothing in this section shall be construed to prevent the issuance of any permit for the construction of a new water gaging station on North St. Vrain Creek at the point of its confluence with Coulson Gulch.".

(b) ENCOURAGEMENT OF EXCHANGES.—

(1) LANDS INSIDE ROCKY MOUNTAIN NATIONAL PARK.—Promptly following enactment of this Act, the Secretary of the Interior shall seek to acquire by donation or exchange those lands within the boundaries of Rocky Mountain National Park owned by the city of Longmont, Colorado, that are referred to in section 111(d) of the Act commonly referred to as the "Colorado Wilderness Act of 1980" (Public Law 96-560; 94 Stat. 3272; 16 U.S.C. 192b-9(d)).

(2) OTHER LANDS.—The Secretary of Agriculture shall immediately and actively pursue negotiations with the city of Longmont, Colorado, concerning the city's proposed exchange of lands owned by the city and located in and near Coulson Gulch for other lands owned by the United States. The Secretary shall report to Congress 2 calendar years after the date of enactment of this Act, and every 2 years thereafter on the progress of such negotiations until negotiations are complete.

TITLE V—HISTORIC AREAS AND CIVIL RIGHTS

SEC. 501. THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph:

"( ) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled "Selma to Montgomery" and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.".

SEC. 502. VANCOUVER NATIONAL HISTORIC RESERVE.

(a) ESTABLISHMENT.—There is established the Vancouver National Historic Reserve in the State of Washington (referred to in this section as the "Reserve"), consisting of the area described in the report entitled "Vancouver National Historic Reserve Feasibility Study and Environmental Assessment" published by the Vancouver Historical Study Commission and dated April 1993 as authorized by Public Law 101-523 (referred to in this section as the "Vancouver Historic Reserve Report").

(b) ADMINISTRATION.—(1) The Reserve shall be administered through a general management plan developed in accordance with this section, and approved by the Secretary of the Interior and the Secretary of the Army.

(2) Not later than three years after the date of enactment of this Act, the National Park Service shall submit to the Secretaries a general management plan for the administration of the Reserve.

(3) The general management plan shall be developed by a Partnership comprised of a representative from the National Park Service, a representative of the Historic Preservation Office of the State of Washington, a representative of the Department of the Army, and a representative of the City of Vancouver, Washington.

(4) The general management plan shall be developed in accordance with the specific findings and recommendations of the Vancouver Historic Reserve Report, along with any other considerations not otherwise in conflict with the Report, and shall include at a minimum a statement of purpose, an interpretive plan, and a economic plan for Pearson Field.

(5) The Reserve shall not be deemed to be a new unit of the National Park System.

(c) NO LIMITATION ON FAA AUTHORITY.—The establishment of the Reserve shall not limit—

(1) the authority of the Federal Aviation Administration over air traffic control, or aviation activities at Pearson Airpark; or

(2) limit operations and airspace in the vicinity of Portland International Airport.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000 per year for operational costs for each fiscal year following enactment of this Act and $5,000,000 for development costs.

SEC. 503. EXTENSION OF KALOKO-HONOKOHAU ADVISORY COMMISSION.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—Notwithstanding section 505(f)(7) of Public Law 95-625 (16 U.S.C. 396d(f)(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (2) of this subsection.

(b) CONFORMING AMENDMENT.—Section 505(f)(7) of Public Law 95-625 (16 U.S.C. 396d(7)), is amended by striking "this Act" and inserting in lieu thereof, "the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1996".

SEC. 504. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z-1(b)) is amended by inserting "(1)" before the first sentence thereof and by adding the following at the end thereof:

"(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.".

SEC. 505. WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.

(a) INCLUSION OF OTHER PROPERTIES.—Section 1601(c) of Public Law 96-607 (16 U.S.C. 410ll) is amended to read as follows:

"(c) ESTABLISHMENT.—To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

"(1) Stanton House, 32 Washington Street, Seneca Falls;

"(2) dwelling, 30 Washington Street, Seneca Falls;

"(3) dwelling, 34 Washington Street, Seneca Falls;

"(4) lot, 26-28 Washington Street, Seneca Falls;

"(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

"(6) theater, 128 Fall Street, Seneca Falls;

"(7) McClintock House, 16 East Williams Street, Waterloo;

"(8) Hunt House, 401 East Williams Street, Waterloo;

"(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

"(10) dwelling, 1 Seneca Street, Seneca Falls;

"(11) dwelling, 10 Seneca Street, Seneca Falls;

"(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(13) dwelling, 12 East Williams Street, Waterloo.".

(b) MISCELLANEOUS AMENDMENTS.—Section 1601 of Public Law 96-607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as "(i)(1)" and inserting at the end thereof the following new paragraph:

"(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.".

SEC. 506. BLACK PATRIOTS MEMORIAL EXTENSION.

The legislative authority for the Black Revolutionary War Patriots Foundation to establish a commemorative work (as defined by the Commemorative Works Act (40 U.S.C. 1001 et seq.)) shall expire October 27, 1998, notwithstanding the time period limitation specified in section 10(b) of that Act (40 U.S.C. 1010(b)).

SEC. 507. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES HISTORIC BUILDING RESTORATION AND PRESERVATION.

(a) AUTHORITY TO MAKE GRANTS.—From the amounts made available to carry out the National Historic Preservation Act, the Secretary of the Interior shall make grants in accordance with this section to eligible historically black colleges and universities for the preservation and restoration of historic buildings and structures on the campus of these institutions.

(b) GRANT CONDITIONS.—Grants made under subsection (a) shall be subject to the condition that the grantee covenants, for the period of time specified by the Secretary, that—

(1) no alteration will be made in the property with respect to which the grant is made without the concurrence of the Secretary; and

(2) reasonable public access to the property with respect to which the grant is made will be permitted by the grantee for interpretive and educational purposes.

(c) MATCHING REQUIREMENT FOR BUILDINGS AND STRUCTURES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES.—(1) Except as provided by paragraph (2), the Secretary may obligate funds made available under this section for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places only if the grantee agrees to match, from funds derived from non-Federal sources, the amount of the grant with an amount that is equal or greater than the grant.

(2) The Secretary may waive paragraph (1) with respect to a grant if the Secretary determines from circumstances that an extreme emergency exists or that such a waiver is in the public interest to assure the preservation of historically significant resources.

(d) FUNDING PROVISION.—Pursuant to section 108 of the National Historic Preservation Act, $29,000,000 shall be made available to carry out the purposes of this section. Of amounts made available pursuant to this section, $5,000,000 shall be available for grants to Fisk University, $2,500,000 shall be available for grants to Knoxville College, $2,000,000 shall be available for grants to Miles College, Alabama, $1,500,000 shall be available for grants to Talladega College, Alabama, $1,550,000 shall be available for grants to Selma University, Alabama, $250,000 shall be available for grants to Stillman College, Alabama, $200,000 shall be available for grants to Concordia College, Alabama $2,900,000 shall be available for grants to Allen University, South Carolina, $1,000,000 shall be available for grants to Claflin College, South Carolina,

$2,000,000 shall be available for grants to Voorhees College, South Carolina, $1,000,000 shall be available for grants to Rust College, Mississippi, and $3,000,000 shall be available for grants to Tougaloo College, Mississippi.

(e) REGULATIONS.—The Secretary shall develop such guidelines as may be necessary to carry out this section.

(f) DEFINITIONS.—For the purposes of this section:

(1) HISTORICALLY BLACK COLLEGES.—The term "historically black colleges and universities" has the same meaning given the term "part B institution" by section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(2) HISTORIC BUILDING AND STRUCTURES.—The term "historic building and structures" means a building or structure listed on, or eligible for listing on, the National Register of Historic Places or designated a National Historic Landmark.

SEC. 508. MEMORIAL TO MARTIN LUTHER KING, JR.

(a) IN GENERAL.—The Secretary of the Interior is authorized to permit the Alpha Phi Alpha Fraternity to establish a memorial on lands under the administrative jurisdiction of the Secretary in the District of Columbia or its environs to honor Martin Luther King, Jr., pursuant to the Commemorative Works Act of 1986.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

(c) PAYMENT OF EXPENSES.—The Alpha Phi Alpha Fraternity shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(d) DEPOSIT OF EXCESS FUNDS.—If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 4401(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Alpha Phi Alpha Fraternity shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

SEC. 509. ADVISORY COUNCIL ON HISTORIC PRESERVATION REAUTHORIZATION.

(a) REAUTHORIZATION.—The last sentence of section 212(a) of the National Historic Preservation Act (16 U.S.C. 470 and following) is amended to read as follows: "There are authorized to be appropriated for the purposes of this title not to exceed $4,000,000 in each fiscal year 1997 through 2000.".

(b) REPORTING REQUIREMENTS.—Within 18 months after the date of enactment of this Act, the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act.

(c) TECHNICAL AMENDMENTS.—Title II of the National Historic Preservation Act (16 U.S.C. 470 and following) is amended as follows:

(1) By striking "appointed" in section 201(a)(4) and inserting "designated".

(2) By striking "and 10" in section 201(c) and inserting "through (11)".

(3) By adding the following new section after section 214:

"SEC. 215. Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this Act.".

(4) By amending subsection (g) of section 205 to read as follows:

"(g) Any Federal agency may provide the Council, with or without reimbursement as may be agreed upon by the Chairman and the agency, with such funds, personnel, facilities, and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection must be expended by the end of the fiscal year following the fiscal year in which the funds are received by the Council. To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act.".

SEC. 510. GREAT FALLS HISTORIC DISTRICT, NEW JERSEY.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

(b) DEFINITIONS.—In this section:

(1) DISTRICT.—The term "District" means the Great Falls Historic District established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) HISTORIC INFRASTRUCTURE.—The term "historic infrastructure" means the District's historic raceway system, all four stories of the original Colt Gun Mill, including belltower, and any other structure that the Secretary determines to be eligible for the National Register of Historic Places.

(c) GREAT FALLS HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(2) BOUNDARIES.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

(d) DEVELOPMENT PLAN.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District;

(2) implementation of projects approved by the Secretary under the development plan; and

(3) a market analysis assessing the economic development potential of the District and recommending steps to be taken to encourage economic development and revitalization in a manner consistent with the District's historic character.

(e) RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.—

(1) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Jersey, local governments and nonprofit entities owning property within the District under which the Secretary may—

(A) pay not more than 50 percent of the cost of restoring, repairing, rehabilitating, and improving historic infrastructure within the District;

(B) provide technical assistance with respect to the preservation and interpretation of properties within the District; and

(C) mark and provide interpretation of properties within the District.

(2) PROVISIONS.—A cooperative agreement under paragraph (1) shall provide that—

(A) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(B) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(C) any construction grant made under this section shall be subject to an agreement that provides that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section shall result in a right of the United States to compensation from the beneficiary of the grant, and that provides for a schedule for such compensation based on the level of Federal investment and the anticipated useful life of the project.

(3) APPLICATIONS.—

(A) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under paragraph (1) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(B) CONSIDERATION.—In making such funds available under this subsection, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Historic Preservation Fund authorized under the National Historic Preservation Act to the Secretary to carry out this section—

(1) $250,000 for grants and cooperative agreements for the development plan under subsection (d); and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under subsection (e).

SEC. 511. NEW BEDFORD NATIONAL HISTORIC LANDMARK DISTRICT.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the New Bedford National Historic Landmark District and associated historic sites as described in subsection (c)(2), including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(B) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(C) New Bedford's historic resources provide unique opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(D) during the nineteenth century, over two thousand whaling voyages sailed out of New Bedford to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities; and

(E) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(2) PURPOSES.—The purposes of this section are—

(A) to help preserve, protect, and interpret the resources within the areas described in subsection (c)(2), including architecture, setting, and associated archival and museum collections;

(B) to collaborate with the city of New Bedford and with associated historical, cultural, and preservation organizations to further the purposes of the park established under this section; and

(C) to provide opportunities for the inspirational benefit and education of the American people.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "park" means the New Bedford Whaling National Historical Park established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(2) BOUNDARIES.—(A) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. In case of any conflict between the descriptions set forth in clauses (i) through (iv) and such map, such map shall govern. The park shall include the following:

(i) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(ii) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(iii) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(iv) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

(B) In addition to the sites, areas and relics referred to in subparagraph (A), the Secretary may assist in the interpretation and preservation of each of the following:

(i) The southwest corner of the State Pier.

(ii) Waterfront Park, immediately south of land adjacent to the State Pier.

(iii) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(iv) The Wharfinger Building, located on Piers 3 and 4.

(v) The Bourne Counting House, located on Merrill's Wharf.

(d) RELATED FACILITIES.—To ensure that the contribution of Alaska Natives to the history of whaling in the United States is fully recognized, the Secretary shall provide—

(1) financial and other assistance to establish links between the New Bedford Whaling National Historical Park and the North Slope Borough Cultural Center, located in Barrow, Alaska; and

(2) to provide other appropriate assistance and funding for the North Slope Borough Cultural Center.

(e) ADMINISTRATION OF PARK.—

(1) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(2) COOPERATIVE AGREEMENTS.—(A) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(B) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this section, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(3) NON-FEDERAL MATCHING REQUIREMENTS.—(A) Funds authorized to be appropriated to the Secretary for the purposes of—

(i) cooperative agreements under paragraph (2) shall be expended in the ratio of one dollar of Federal funds for each four dollars of funds contributed by non-Federal sources; and

(ii) construction, restoration, and rehabilitation of visitor and interpretive facilities (other than annual operation and maintenance costs) shall be expended in the ratio of one dollar of Federal funds for each one dollar of funds contributed by non-Federal sources.

(B) For the purposes of this paragraph, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this section, any money so contributed. With the approval of the Secretary, any donation of property, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this paragraph.

(4) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary may acquire only by donation such lands, interests in lands, and improvements thereon within the park as are needed for essential visitor contact and interpretive facilities.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this section.

(e) GENERAL MANAGEMENT PLAN.—Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan as soon as practically possible. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)) and other applicable law.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out annual operations and maintenance with respect to the park and to carry out the activities under section 3(D).

(2) EXCEPTIONS.—In carrying out this section—

(A) not more than $2,000,000 may be appropriated for construction, restoration, and rehabilitation of visitor and interpretive facilities, and directional and visitor orientation signage;

(B) none of the funds authorized to be appropriated by this section may be used for the operation or maintenance of the Schooner Ernestina; and

(C) not more than $50,000 annually of Federal funds may be used for interpretive and educational programs for the Schooner Ernestina pursuant to cooperative grants under subsection (d)(2).

SEC. 512. NICODEMUS NATIONAL HISTORIC SITE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) the Town of Nicodemus, in Kansas, has national significance as the only remaining western town established by African-Americans during the Reconstruction period following the Civil War;

(B) the town of Nicodemus is symbolic of the pioneer spirit of African-Americans who dared to leave the only region they had been familiar with to seek personal freedom and the opportunity to develop their talents and capabilities; and

(C) the town of Nicodemus continues to be a valuable African-American community.

(2) PURPOSES.—The purposes of this section are—

(A) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the remaining structures and locations that represent the history (including the settlement and growth) of the town of Nicodemus, Kansas; and

(B) to interpret the historical role of the town of Nicodemus in the Reconstruction period in the context of the experience of westward expansion in the United States.

(b) DEFINITIONS.—In this section:

(1) HISTORIC SITE.—The term "historic site" means the Nicodemus National Historic Site established by subsection (c).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) ESTABLISHMENT OF NICODEMUS NATIONAL HISTORIC SITE.—

(1) ESTABLISHMENT.—There is established the Nicodemus National Historic Site in Nicodemus, Kansas.

(2) DESCRIPTION.—

(A) IN GENERAL.—The historic site shall consist of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, and the Township Hall located within the approximately 161.35 acres designated as the Nicodemus National Landmark in the Township of Nicodemus, Graham County, Kansas, as registered on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a), and depicted on a map entitled "Nicodemus National Historic Site", numbered 80,000 and dated August 1994.

(B) MAP AND BOUNDARY DESCRIPTION.—The map referred to in subparagraph (A) and an accompanying boundary description shall be on file and available for public inspection in the office of the Director of the National Park Service and any other office of the National Park Service that the Secretary determines to be an appropriate location for filing the map and boundary description.

(d) ADMINISTRATION OF THE HISTORIC SITE.—

(1) IN GENERAL.—The Secretary shall administer the historic site in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, Chapter 593; 16 U.S.C. 461 et seq.).

(2) COOPERATIVE AGREEMENTS.—To further the purposes of this section, the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution.

(3) TECHNICAL AND PRESERVATION ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide to any eligible person described in subparagraph (B) technical assistance for the preservation of historic structures of, the maintenance of the cultural landscape of, and local preservation planning for, the historic site.

(B) ELIGIBLE PERSONS.—The eligible persons described in this subparagraph are—

(i) an owner of real property within the boundary of the historic site, as described in subsection (c)(2); and

(ii) any interested individual, agency, organization, or institution that has entered into an agreement with the Secretary pursuant to paragraph (2).

(e) ACQUISITION OF REAL PROPERTY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary is authorized to acquire by donation, exchange, or purchase with funds made available by donation or appropriation, such lands or interests in lands as may be necessary to allow for the interpretation, preservation, or restoration of the First Baptist Church, the St. Francis Hotel, the Nicodemus School District Number 1, the African Methodist Episcopal Church, or the Township Hall, as described in subsection (c)(2)(A), or any combination thereof.

(2) LIMITATIONS.—

(A) ACQUISITION OF PROPERTY OWNED BY THE STATE OF KANSAS.—Real property that is owned by the State of Kansas or a political subdivision of the State of Kansas that is acquired pursuant to paragraph (1) may only be acquired by donation.

(B) CONSENT OF OWNER REQUIRED.—No real property may be acquired under this subsection without the consent of the owner of the real property.

(f) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not Later than the last day of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall, in consultation with the officials described in paragraph (2), prepare a general management plan for the historic site.

(2) CONSULTATION.—In preparing the general management plan, the Secretary shall consult with an appropriate official of each of the following:

(A) The Nicodemus Historical Society.

(B) The Kansas Historical Society.

(C) Appropriate political subdivisions of the State of Kansas that have jurisdiction over all or a portion of the historic site.

(3) SUBMISSION OF PLAN TO CONGRESS.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this section.

SEC. 513. UNALASKA.

(a) SHORT TITLE.—This section may be cited as the "Aleutian World War II National Historic Areas Act of 1996".

(b) PURPOSE.—The purpose of this section is to designate and preserve the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

(c) BOUNDARIES.—The Aleutian World War II National Historic Area shall be comprised of areas on Amaknak Island depicted on the map entitled "Aleutian World War II National Historic Area".

(d) TERMS AND CONDITIONS.—Nothing in this section shall—

(1) authorize the conveyance of lands between the Ounalaska Corporation and the United States Department of the Interior, nor remove land or structures appurtenant to the land from the exclusive control of the Ounalaska Corporation; or

(2) provide authority for the Department of the Interior to assume the duties associated with the daily operation of the historic area or any of its facilities or structures.

(e) TECHNICAL ASSISTANCE.—The Secretary of the Interior may award grants and provide technical assistance to the Ounalaska Corporation and the City of Unalaska to assist with the planning, development, and historic preservation from any program funds authorized by law for technical assistance, land use planning or historic preservation.

SEC. 514. JAPANESE AMERICAN PATRIOTISM MEMORIAL.

(a) PURPOSE.—It is the purpose of this section—

(1) to assist in the effort to timely establish within the District of Columbia a national memorial to Japanese American patriotism in World War II; and

(2) to improve management of certain parcels of Federal real property located within the District of Columbia,

by transferring jurisdiction over such parcels to the Architect of the Capitol, the Secretary of the Interior, and the Government of the District of Columbia.

(b) TRANSFERS OF JURISDICTION.—

(1) IN GENERAL.—Effective on the date of the enactment of this Act and notwithstanding any other provision of law, jurisdiction over the parcels of Federal real property described in paragraph (2) is transferred without additional consideration as provided by paragraph (2).

(2) SPECIFIC TRANSFERS.—

(A) TRANSFERS TO SECRETARY OF THE INTERIOR.—

(i) IN GENERAL.—Jurisdiction over the following parcels is transferred to the Secretary of the Interior:

(I) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by D Street, N.W., New Jersey Avenue, N.W., and Louisiana Avenue, N.W., in Square W632 in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(II) That triangle of Federal land, including any contiguous sidewalks and tree space, that is part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol bound by C Street, N.W., First Street, N.W., and Louisiana Avenue, N.W., in the District of Columbia, as shown on the Map Showing Properties Under Jurisdiction of the Architect of the Capitol, dated November 8, 1994.

(ii) LIMITATION.—The parcels transferred by clause (i) shall not include those contiguous sidewalks abutting Louisiana Avenue, N.W., which shall remain part of the United States Capitol Grounds under the jurisdiction of the Architect of the Capitol.

(iii) CONSIDERATION AS MEMORIAL SITE.—The parcels transferred by sibclause (I) of clause (i) may be considered as a site for a national memorial to Japanese American patriotism in World War II.

(B) TRANSFERS TO ARCHITECT OF THE CAPITOL.—Jurisdiction over the following parcels is transferred to the Architect of the Capitol:

(i) That portion of the triangle of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running in a northeast direction on the west, the major portion of Maryland Avenue, N.E., on the south, and 2nd Street, N.E., on the east, including the contiguous sidewalks.

(ii) That irregular area of Federal land in Reservation No. 204 in the District of Columbia under the jurisdiction of the Secretary of the Interior, including any contiguous sidewalks, northeast of the real property described in clause (i) bound by Constitution Avenue, N.E., on the north, the branch of Maryland Avenue, N.E., running to the northeast on the south, and the private property on the west known as lot 7 in square 726.

(iii) The two irregularly shaped medians lying north and east of the property described in clause (i), located between the north and south curbs of Constitution Avenue, N.E., west of its intersection with Second Street, N.E., all as shown in Land Record No. 268, dated November 22, 1957, in the Office of the Surveyor, District of Columbia, in Book 138, Page 58.

(iv) All sidewalks under the jurisdiction of the District of Columbia abutting on and contiguous to the land described in clauses (i), (ii), and (iii).

(C) TRANSFERS TO DISTRICT OF COLUMBIA.—Jurisdiction over the following parcels is transferred to the Government of the District of Columbia:

(i) That portion of New Jersey Avenue, N.W., between the northernmost point of the intersection of New Jersey Avenue, N.W., and D Street, N.W., and the northernmost point of the intersection of New Jersey Avenue, N.W., and Louisiana Avenue, N.W., between squares 631 and W632, which remains Federal property.

(ii) That portion of D Street, N.W., between its intersection with New Jersey Avenue, N.W., and its intersection with Louisiana Avenue, N.W., between Squares 630 and W632, which remains Federal property.

(c) MISCELLANEOUS.—

(1) COMPLIANCE WITH OTHER LAWS.—Compliance with this section shall be deemed to satisfy the requirements of all laws otherwise applicable to transfers of jurisdiction over parcels of Federal real property.

(2) LAW ENFORCEMENT RESPONSIBILITY.—Law enforcement responsibility for the parcels of Federal real property for which jurisdiction is transferred by subsection (b) shall be assumed by the person acquiring such jurisdiction.

(3) UNITED STATES CAPITOL GROUNDS.—

(A) DEFINITION.—The first section of the Act entitled "An Act to define the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the parcels of Federal real property described in subsection (b)(2)(B).

(B) JURISDICTION OF CAPITOL POLICE.—The United States Capitol Police shall have jurisdiction over the parcels of Federal real property described in subsection (b)(2)(B) in accordance with section 9 of such Act of July 31, 1946 (40 U.S.C. 212a).

(4) EFFECT OF TRANSFERS.—A person relinquishing jurisdiction over a parcel of Federal real property transferred by subsection (b) shall not retain any interest in the parcel except as specifically provided by this section.

SEC. 515. MANZANAR NATIONAL HISTORIC SITE.

(a) TERMINATION OF WITHDRAWALS.—

(1) UNAVAILABILITY OF CERTAIN LANDS.—The Congress, by enacting the Act entitled "An Act to establish the Manzanar National Historic Site in the State of California, and for other purposes", approved March 3, 1992 (106 Stat. 40; Public Law 102-248), (1) provided for the protection and interpretation of the historical, cultural, and natural resources associated with the relocation of Japanese-Americans during World War II and established the Manzanar National Historic Site in the State of California, and (2) authorized the Secretary of the Interior to acquire lands or interests therein within the boundary of the Historic Site by donation, purchase with donated or appropriated funds, or by exchange. The public lands identified for disposal in the Bureau of Land Management's Bishop Resource Area Resource Management Plan that could be made available for exchange in support of acquiring lands within the boundary of the Historic Site are currently unavailable for this purpose because they are withdrawn by an Act of Congress.

(2) TERMINATION OF WITHDRAWAL.—To provide a land base with which to allow land exchanges in support of acquiring lands within the boundary of the Manzanar National Historic Site, the withdrawal of the following described lands is terminated and such lands shall not be subject to the Act of March 4, 1931 (chap. 517; 46 Stat. 1530):

MOUNT DIABLO MERIDIAN

Township 2 North, Range 26 East

Section 7:

North half south half of lot 1 of southwest quarter, north half south half of lot 2 of southwest quarter, north half south half southeast quarter.

Township 4 South, Range 33 East

Section 31:

Lot 1 of southwest quarter, northwest quarter northeast quarter, southeast quarter;

Section 32:

Southeast quarter northwest quarter, northeast quarter southwest quarter, southwest quarter southeast quarter.

Township 5 South, Range 33 East

Section 4:

West half of lot 1 of northwest quarter, west half of lot 2 of northwest quarter.

Section 5:

East half of lot 1 of northeast quarter, east half of lot 2 of northeast quarter.

Section 9:

Northwest quarter southwest quarter northeast quarter.

Section 17:

Southeast quarter northwest quarter, northwest quarter southeast quarter.

Section 22:

Lot 1 and 2.

Section 27:

Lot 2, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Section 34:

Northeast quarter, northwest quarter, southeast quarter.

Township 6 South, Range 31 East

Section 19:

East half northeast quarter southeast quarter.

Township 6 South, Range 33 East

Section 10:

East half southeast quarter.

Section 11:

Lot 1 and 2, west half northeast quarter, northwest quarter, west half southwest quarter, northeast quarter southwest quarter.

Section 14:

Lots 1 through 4, west half northeast quarter, southeast quarter northwest quarter, northeast quarter southwest quarter, northwest quarter southeast quarter.

Township 7 South, Range 32 East

Section 23:

South half southwest quarter.

Section 25:

Lot 2, northeast quarter northwest quarter.

Township 7 South, Range 33 East

Section 30:

South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter.

Section 31:

North half of lot 2 of northwest quarter, southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 8 South, Range 33 East

Section 5:

Northwest quarter southwest quarter.

Township 13 South, Range 34 East

Section 1:

Lots 43, 46, and 49 thru 51.

Section 2:

North half northwest quarter southeast quarter southeast quarter.

Township 11 South, Range 35 East

Section 30:

Lots 1 and 2, east half northwest quarter, east half southwest quarter, and west half southwest quarter southeast quarter.

Section 31:

Lot 8, west half west half northeast quarter, east half northwest quarter, and west half southeast quarter.

Township 13, South, Range 35 East

Section 18:

South half of lot 2 of northwest quarter, lot 1 and 2 of southwest quarter, southwest quarter northeast quarter, northwest quarter southeast quarter.

Section 29:

Southeast quarter northeast quarter, northeast quarter southeast quarter.

Township 13 South, Range 36 East

Section 17:

Southwest quarter northwest quarter, southwest quarter.

Section 18:

South half of lot 1 of northwest quarter, lot 1 of southwest quarter, northeast quarter, southeast quarter.

Section 19:

North half of lot 1 of northwest quarter, east half northeast quarter, northwest quarter northeast quarter.

Section 20:

Southwest quarter northeast quarter, northwest quarter, northeast quarter southwest quarter, southeast quarter.

Section 28:

Southwest quarter southwest quarter.

Section 29:

East half northeast quarter.

Section 33:

Northwest quarter northwest quarter, southeast quarter northwest quarter.

Township 14 South, Range 36 East

Section 31:

Lot 1 and 2 of southwest quarter, southwest quarter southeast quarter.

aggregating 5,630 acres, more or less.

(b) AVAILABILITY OF LANDS.—Upon enactment of this Act, the lands specified in subsection (a) shall be open to operation of the public land laws, including the mining and mineral leasing laws, only after the Secretary of the Interior has published a notice in the Federal Register opening such lands.

(c) ADDITIONAL AREA.—Section 101 of Public Law 102-248 is amended by inserting in subsection (b) after the second sentence "The site shall also include an additional area of approximately 300 acres as demarcated as the new proposed boundaries in the map dated March 8, 1996, entitled 'Manzanar National Historic Site Archaeological Base Map'."

SEC. 516. RECOGNITION AND DESIGNATION OF THE AIDS MEMORIAL GROVE AS NATIONAL MEMORIAL.

(a) RECOGNITION OF SIGNIFICANCE OF THE AIDS MEMORIAL GROVE.—The Congress hereby recognizes the significance of the AIDS Memorial Grove, located in Golden Gate Park in San Francisco, California, as a memorial—

(1) dedicated to individuals who have died as a result of acquired immune deficiency syndrome; and

(2) in support of individuals who are living with acquired immune deficiency syndrome and their loved ones and caregivers.

(b) DESIGNATION AS NATIONAL MEMORIAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall designate the AIDS Memorial Grove as a national memorial.

TITLE VI—CIVIL AND REVOLUTIONARY WAR SITES

SEC. 601. UNITED STATES CIVIL WAR CENTER.

(a) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana (hereinafter in this section referred to as the "center") shall be known and designated as the "United States Civil War Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the "United States Civil War Center".

(c) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

SEC. 602. CORINTH, MISSISSIPPI, BATTLEFIELD ACT.

(a) PURPOSE.—The purpose of this section is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

(b) ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.—The Secretary of the Interior (referred to in this title as the "Secretary") shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(c) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

(d) INTERPRETIVE CENTER AND MARKING.—

(1) INTERPRETIVE CENTER.— The Secretary shall construct, operate, and maintain on the property acquired under subsection (b) a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(3) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this section, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $6,000,000 for development to carry out this section.

SEC. 603. RICHMOND NATIONAL BATTLEFIELD PARK.

(a) FINDINGS AND PURPOSE.—Section 1 of the Act of March 2, 1936 (chapter 113, 49 Stat. 1155; 16 U.S.C. 423j), is amended to read as follows:

"SECTION 1. FINDINGS AND PURPOSE.

"(a) FINDINGS.—In 1996 the Congress finds that:

"(1) In 1936 the Congress established the Richmond National Battlefield Park in and around the city of Richmond, Virginia. The park's boundary was established to permit the inclusion of all military battlefield areas related to the battles fought during the Civil War in defense of and against the city of Richmond. The park originally included the area then known as the Richmond Battlefield State Park.

"(2) The total acreage of the area identified in 1936 for consideration for inclusion in the Richmond National Battlefield Park encompasses approximately 225,000 acres in and around the city of Richmond, Virginia. A study undertaken by the congressionally authorized Civil War Sites Advisory Committee determined that within those 225,000 acres, the historically significant areas in and around Richmond relating to the campaigns against and in defense of Richmond encompass approximately 38,000 acres. The National Park Service, through its general management planning process for Richmond National Battlefield Park, has identified approximately 7,121 acres which satisfy the National Park Service criteria of significance, integrity, feasibility, and suitability for inclusion in Richmond National Battlefield Park.

"(3) There is national interest in protecting and preserving sites of historic significance associated with the Civil War and Richmond.

"(4) The Commonwealth of Virginia and its local units of government have authority to prevent or minimize adverse uses of these historic resources and can play a significant role in the protection of the historic resources related to the battles of Richmond.

"(b) PURPOSES.—Therefore, it is the purpose of this Act—

"(1) to establish a revised boundary for the Richmond National Battlefield Park based on the findings of the Civil War Sites Advisory Committee and the National Park Service; and

"(2) to direct the Secretary of the Interior to work in cooperation with the Commonwealth of Virginia, the city of Richmond, and other political subdivisions of the Commonwealth, other public entities, and the private sector in the management, protection, and interpretation of the resources associated with the Civil War and the Battles of Richmond in and around the city of Richmond, Virginia.".

(b) MODIFICATION OF BOUNDARY.—Section 2 of the Act of March 2, 1936 (chapter 113, 49 Stat. 1155; 16 U.S.C. 423k), is amended to read as follows:

"SEC. 2. BOUNDARY.

"The boundary of the Richmond National Battlefield Park (hereinafter in this Act referred to as the 'park') is hereby modified to comprise the lands, waters, and interests in lands therein that, on the day before the date of the enactment of this Act, were in Federal ownership and were administered by the Secretary of the Interior as part of the park.".

(c) LAND ACQUISITION.—The Act of March 2, 1936 (chapter 113, 49 Stat. 1155; 16 U.S.C. 423j and following), is amended by adding the following new section after section 3:

"SEC. 4. LAND ACQUISITION.

"(a) The Secretary is authorized to acquire any lands and interests in lands identified in the general management plan for the park approved June 7, 1996, and depicted within the area delineated as 'Park Boundary' on the map entitled 'Richmond National Battlefield Park Boundary Map', as numbered 367-NEFA 80026 and dated August 1996, which shall be on file and available for inspection in the Office of the Director of the National Park Service, Department of the Interior.

"(b) The Secretary is authorized to acquire the lands identified in subsection (a) by donation, purchase with donated or appropriated funds, exchange, or otherwise. Privately owned lands or the interest therein may be acquired only with the consent of the property owner. In acquiring lands and interest in lands under this Act, the Secretary shall acquire the minimum Federal interests necessary to achieve the objectives of the park.

"(c) Upon acquisition by the Secretary of any lands and interests in lands identified in subsection (a), the Secretary shall revise the boundary of the park to include those lands within the boundary of the park and shall manage them as part of the park and consistent with the purposes of the Act.".

(d) PARK MANAGEMENT AND ADMINISTRATION.—The Act of March 2, 1936 (chapter 113; 49 Stat. 1155; 16 U.S.C. 423j and following), is amended by adding the following new section after section 4:

"SEC. 5. PARK MANAGEMENT AND ADMINISTRATION.

"(a) In administering the park, the Secretary shall interpret, for the benefit of visitors to the park and the general public, the Battles of Richmond in the larger context of the Civil War and American history, including the causes and consequences of the Civil War and the effects of the war on all the American people.

"(b) The Secretary is directed to work with the Commonwealth of Virginia, its political subdivisions, including the city of Richmond, private property owners, and the private sector to develop mechanisms to protect and interpret the resources identified within the boundary as depicted on the map identified in section 2 of this Act. In order to carry out this section, the Secretary is authorized to enter into cooperative agreements with the public and private sectors to carry out the purposes of this Act, and to find means of protecting and interpreting the historic resources for the benefit of present and future generations in a manner that would allow for continued private ownership and use where compatible with the purposes of the park. The Secretary is also authorized to provide technical assistance to governmental entities, nonprofit organizations, and private property owners in the development of comprehensive plans, land use guidelines, and other activities which are consistent with conserving the historic, cultural, natural, and scenic resources found within the park boundary.

"(c) The Secretary is authorized to provide technical assistance to the Commonwealth of Virginia, its political subdivisions, nonprofit entities, and private property owners engaged in the protection, interpretation, or commemoration of historically significant Civil War resources located outside of the park boundary. Such technical assistance does not authorize the Secretary to own or manage any of the resources outside the park boundary.".

(e) TECHNICAL AMENDMENT.—Section 3 of the Act of March 2, 1936 (chapter 113, 49 Stat. 1156; 16 U.S.C. 423l) is amended by striking the period and inserting ", and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).".

SEC. 604. REVOLUTIONARY WAR AND WAR OF 1812 HISTORIC PRESERVATION STUDY.

(a) SHORT TITLE.—This section may be cited as the "Revolutionary War and War of 1812 Historic Preservation Study Act of 1996".

(b) FINDINGS.—The Congress finds that—

(1) Revolutionary War sites and War of 1812 sites provide a means for Americans to understand and interpret the periods in American history during which the Revolutionary War and War of 1812 were fought;

(2) the historical integrity of many Revolutionary War sites and War of 1812 sites is at risk because many of the sites are located in regions that are undergoing rapid urban or suburban development; and

(3) it is important, for the benefit of the United States, to obtain current information on the significance of, threats to the integrity of, and alternatives for the preservation and interpretation of Revolutionary War sites and War of 1812 sites.

(c) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term "Director" means the Director of the National Park Service.

(2) REVOLUTIONARY WAR SITE.—The term "Revolutionary War site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the Revolutionary War.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) WAR OF 1812 SITE.—The term "War of 1812 site" means a site or structure situated in the United States that is thematically tied with the nationally significant events that occurred during the War of 1812.

(d) STUDY.—

(1) PREPARATION.—The Secretary, acting through the Director, shall prepare a study of Revolutionary War sites and War of 1812 sites.

(2) MATTERS TO BE ADDRESSED.—The study under subsection (b) shall—

(A) identify Revolutionary War sites and War of 1812 sites, including sites within units of the National Park System in existence on the date of enactment of this Act;

(B) determine the relative significance of the sites;

(C) assess short- and long-term threats to the integrity of the sites;

(D) provide alternatives for the preservation and interpretation of the sites by Federal, State, and local governments, or other public or private entities, including designation of the sites as units of the National Park System; and

(E) research and propose land preservation techniques.

(3) CONSULTATION.—During the preparation of the study under paragraph (1), the Director shall consult with—

(A) the Governor of each affected States;

(B) each affected unit of local government;

(C) State and local historic preservation organizations;

(D) scholarly organizations; and

(E) such other interested parties as the Secretary considers advisable.

(4) TRANSMITTAL TO CONGRESS.—Not later than 2 years after the date on which funds are made available to carry out the study under paragraph (1), the Director shall transmit a report describing the results of the study to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the State.

(5) REPORT.—If the Director submits a report on the study to the Director of the Office of Management and Budget, the Secretary shall concurrently transmit copies of the report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, to remain available until expended.

SEC. 605. AMERICAN BATTLEFIELD PROTECTION PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "American Battlefield Protection Act of 1996".

(b) PURPOSE.—The purpose of this section is to assist citizens, public and private institutions, and governments at all levels in planning, interpreting, and protecting sites where historic battles were fought on American soil during the armed conflicts that shaped the growth and development of the United States, in order that present and future generations may learn and gain inspiration from the ground where Americans made their ultimate sacrifice.

(c) PRESERVATION ASSISTANCE.—

(1) IN GENERAL.—Using the established national historic preservation program to the extent practicable, the Secretary of the Interior, acting through the American Battlefield Protection Program, shall encourage, support, assist, recognize, and work in partnership with citizens, Federal, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations in identifying, researching, evaluating, interpreting, and protecting historic battlefields and associated sites on a National, State, and local level.

(2) FINANCIAL ASSISTANCE.—To carry out paragraph (1), the Secretary may use a cooperative agreement, grant, contract, or other generally adopted means of providing financial assistance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually to carry out this section, to remain available until expended.

(e) REPEAL.—

(1) IN GENERAL.—This section is repealed as of the date that is 10 years after the date of enactment of this section.

(2) NO EFFECT ON GENERAL AUTHORITY.—The Secretary may continue to conduct battlefield studies in accordance with other authorities available to the Secretary.

(3) UNOBLIGATED FUNDS.—Any funds made available under this section that remain unobligated shall be credited to the general fund of the Treasury.

SEC. 606. CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARKS.

Section 1(c) of the Act entitled "An Act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia", approved December 24, 1987 (101 Stat. 1442), is amended by striking "$30,000,000" and inserting "$51,900,000".

SEC. 607. SHENANDOAH VALLEY BATTLEFIELDS.

(a) SHORT TITLE.—This section may be cited as the "Shenandoah Valley Battlefields National Historic District and Commission Act of 1996".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1992, the Secretary of the Interior issued a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley, and found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(4) the preservation and interpretation of these sites will make a vital contribution to the understanding of the heritage of the United States;

(5) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(6) partnerships between Federal, State, and local governments, the regional entities of such governments, and the private sector offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

(c) STATEMENT OF PURPOSE.—The purposes of this section are to—

(1) preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) create partnerships among Federal, State, and local governments, the regional entities of such governments, and the private sector to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

(d) DEFINITIONS.—As used in this section:

(1) The term "District" means the Shenandoah Valley Battlefields National Historic District established by section 5.

(2) The term "Commission" means the Shenandoah Valley Battlefields National Historic District Commission established by section 9.

(3) The term "plan" means the Shenandoah Valley Battlefields National Historic District Commission plan approved by the Secretary under section 6.

(4) The term "management entity" means a unit of government or nonprofit organization designated by the plan to manage and administer the District.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Shenandoah Valley" means the Shenandoah Valley in the Commonwealth of Virginia.

(e) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT.—

(1) ESTABLISHMENT.—To carry out the purposes of this section, there is hereby established the Shenandoah Valley Battlefields National Historic District in the Commonwealth of Virginia.

(2) BOUNDARIES.—(A) The corridor shall consist of lands and interests therein as generally depicted on the map entitled "Shenandoah Valley National Battlefields", numbered SHVA/80,000, and dated April 1994.

(B) The District shall consist of historic transportation routes linking the units depicted on the map referred to in subparagraph (A).

(C) The map referred to in subparagraph (A) shall be on file and available for public inspection in the offices of the Commission, the management entity, and in the appropriate offices of the National Park Service.

(f) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT PLAN.—

(1) IN GENERAL.—The District shall be managed and administered by the Commission and the management entity in accordance with the purposes of this Act and the Shenandoah Valley Battlefields National Historic District Plan developed by the Commission and approved by the Secretary, as provided in this subsection.

(2) SPECIFIC PROVISIONS.—The plan shall include—

(A) an inventory which includes any property in the District which should be preserved, restored, managed, maintained, or acquired because of its national historic significance;

(B) provisions for the protection and interpretation of the natural, cultural, and historic resources of the District consistent with the purposes of this section;

(C) provisions for the establishment of a management entity which shall be a unit of government or a private nonprofit organization that administers and manages the District consistent with the plan, and possesses the legal ability to—

(i) receive Federal funds and funds from other units of government or other organizations for use in preparing and implementing the management plan;

(ii) disburse Federal funds to other units of government or other nonprofit organizations for use in preparing and implementing the plan;

(iii) enter into agreements with the Federal, State, or other units of government and nonprofit organizations;

(iv) acquire lands or interests therein by gift or devise, or by purchase from a willing seller using donated or appropriated funds, or by donation and no lands or interests therein may be acquired by condemnation; and

(v) make such reasonable and necessary modifications to the plan which shall be approved by the Secretary;

(D) recommendations to the Commonwealth of Virginia (and political subdivisions thereof) for the management, protection, and interpretation of the natural, cultural, and historical resources of the District;

(E) identification of appropriate partnerships between the Federal, State, and local governments and regional entities, and the private sector, in furtherance of the purposes of this section;

(F) locations for visitor contact and major interpretive facilities;

(G) provisions for implementing a continuing program of interpretation and visitor education concerning the resources and values of the District;

(H) provisions for a uniform historical marker and wayside exhibit program in the District, including a provision for marking, with the consent of the owner, historic structures and properties that are contained within the historic core areas and contribute to the understanding of the District;

(I) recommendations for means of ensuring continued local involvement and participation in the management, protection, and development of the District; and

(J) provisions for appropriate living history demonstrations and battlefield reenactments.

(3) PREPARATION OF DRAFT PLAN.—(A) Not later than 3 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft plan that meets the requirements of paragraph (2).

(B) Prior to submitting the draft plan to the Secretary, the Commission shall ensure that—

(i) the Commonwealth of Virginia, and any political subdivision thereof that would be affected by the plan, receives a copy of the draft plan;

(ii) adequate notice of the availability of the draft plan is provided through publication in

appropriate local newspapers in the area of the District; and

(iii) at least 1 public hearing in the vicinity of the District is conducted by the Commission with respect to the draft plan.

(4) REVIEW OF THE PLAN BY THE SECRETARY.—The Secretary shall review the draft plan submitted under paragraph (3) and, not later than 90 days after the date on which the draft plan is submitted, shall either—

(A) approve the draft plan as the plan if the Secretary finds that the plan, when implemented, would adequately protect the significant historical and cultural resources of the District; or

(B) reject the draft plan and advise the Commission in writing of the reasons therefore and indicate any recommendations for revisions that would make the draft plan acceptable.

(g) DUTIES OF THE SECRETARY.—

(1) IN GENERAL.—(A) The Secretary may award grants, provide technical assistance and enter into cooperative agreements with the Commission, management entity, other units of government, or other persons to provide for the preservation and interpretation of the natural, cultural, and historical resources within the District.

(2) TECHNICAL ASSISTANCE.—The Secretary may make grants, provide technical assistance, and enter into cooperative agreements for—

(A) the preparation and implementation of the plan pursuant to subsection (f);

(B) interpretive and educational programs;

(C) acquiring lands or interests in lands from willing sellers;

(D) capital projects and improvements undertaken pursuant to the plan; and

(E) facilitating public access to historic resources within the District.

(3) EARLY ACTIONS.—After enactment of this Act but prior to approval of the plan, the Secretary may provide technical and financial assistance for early actions which are important to the purposes of this Act and which protect and preserve resources in imminent danger of irreversible damage but for the fact of such early action.

(4) ACQUISITION OF LAND.—The Secretary may acquire land and interests in lands from a willing seller or donee within the District that have been specifically identified by the Commission for acquisition by the Federal Government. No lands or interests therein may be acquired by condemnation.

(5) DETAIL.—Each fiscal year during the existence of the Commission and upon request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 9. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(6) REPORT.—Not later than 2 years after approval of the plan, the Secretary shall submit to Congress a report recommending whether the District or components thereof meet the criteria for designation as a unit of the National Park Service.

(7) OTHER ASSISTANCE.—Nothing in this section shall be deemed to prohibit the Secretary or units of government from providing technical or financial assistance under any other provision of law.

(h) SHENANDOAH VALLEY BATTLEFIELDS NATIONAL HISTORIC DISTRICT COMMISSION.—

(1) ESTABLISHMENT.—There is hereby established the Shenandoah Valley Battlefields National Historic District Commission.

(2) MEMBERSHIP.—The Commission shall be composed of 19 members, to be appointed by the Secretary as follows:

(A) 5 members representing local governments of communities in the vicinity of the District, appointed after the Secretary considers recommendations made by appropriate local governing bodies.

(B) 10 members representing property owners within the District (1 member within each unit of the battlefields).

(C) 1 member with demonstrated expertise in historic preservation.

(D) 1 member who is a recognized historian with expertise in Civil War history.

(E) The Governor of Virginia, or a designee of the Governor, ex officio.

(F) The Director of the National Park Service, or a designee of the Director, ex officio.

(3) APPOINTMENTS.—Members of the Commission shall be appointed for terms of 3 years. Any member of the Commission appointed for a definite term may serve after the expiration of the term until the successor of the members is appointed.

(4) ELECTION OF OFFICERS.—The Commission shall elect 1 of its members as Chairperson and 1 as Vice Chairperson. The Vice Chairperson shall serve as Chairperson in the absence of the Chairperson.

(5) VACANCY.—Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary shall fill any vacancy within 30 days after the vacancy occurs.

(6) QUORUM.—Any majority of the Commission shall constitute a quorum.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission, but not less than quarterly. Notice of the Commission meetings and agendas for the meetings shall be published in local newspapers that have a distribution throughout the Shenandoah Valley. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(8) STAFF OF THE COMMISSION.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(9) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, without reimbursement, such administrative support services as the Commission may request.

(10) FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail to the Commission or management entity, without reimbursement, personnel of the agency to assist the Commission or management entity in carrying out its duties and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(11) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(12) EXPENSES.—Members of the Commission shall serve without compensation, but the Secretary may reimburse members for expenses reasonably incurred in carrying out the responsibilities of the Commission under this Act.

(13) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(14) GIFTS.—The Commission may, for purposes of carrying out the duties of the Commission, seek, accept, and dispose of gifts, bequests, or donations of money, personal or real property, or services received from any source.

(15) TERMINATION.—The Commission shall terminate at the expiration of the 45-day period beginning on the date on which the Secretary approves the plan under subsection (f)(4).

(i) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall—

(A) develop the plan and draft plan referred to in subsection (f), in consultation with the Secretary;

(B) assist the Commonwealth of Virginia, and any political subdivision thereof, in the management, protection, and interpretation of the natural, cultural, and historical resources within the District, except that the Commission shall in no way infringe upon the authorities and policies of the Commonwealth of Virginia or any political subdivision; and

(C) take appropriate action to encourage protection of the natural, cultural, and historic resources within the District by landowners, local governments, organizations, and businesses.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the Commission not more than $250,000 annually to remain available until expended.

(2) ASSISTANCE.—(A) From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the Secretary for grants and technical assistance pursuant to subsections (g)(1), (2), and (3) not more than $2,000,000 annually to remain available until expended.

(B) The Federal share of any funds awarded under subsection (g)(2) may not exceed the amount of non-Federal funds provided for the preservation, interpretation, planning, development, or implementation with respect to which the grant is awarded.

(3) LAND ACQUISITION.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated for land acquisition pursuant to subsection (g)(4) not more than $2,000,000 annually to remain available until expended.

(4) MANAGEMENT ENTITY.—From the amounts made available to carry out the National Historic Preservation Act, there are authorized to be appropriated to the management entity not more than $500,000 annually to remain available until expended.

TITLE VII—FEES

SEC. 701. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading "SURVEYING THE PUBLIC LANDS" under the heading "UNDER THE DEPARTMENT OF THE INTERIOR" in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: Provided, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. That amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking and other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF = ((LT + SS) STFP) + GRAF = AGR; AGR % BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 3 years after the date of enactment of this Act and every 5 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher; and

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms "revenue" and "sales", as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one-half of 1 percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce Federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(j) Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

SEC. 702. DELAWARE WATER GAP.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

SEC. 703. VISITOR SERVICES.

(a) SHORT TITLE.—This section may be cited as the "Visitor Services Improvement and Outdoor Legacy Act of 1996".

(b) PURPOSE.—The purpose of this section is to improve the overall quality of the visitor recreation experience on Federal lands through increased funding provided by an innovative and incentive-based recreation fee program combined with an appropriation targeted to meet the increasing demand for recreational use of the Federal lands.

(c) REPEAL OF EXISTING RECREATION FEE PROGRAM AND ESTABLISHMENT OF NEW RECREATION FEE PROGRAM.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a) is amended to read as follows:

"RECREATION FEE PROGRAM

"SEC. 4. (a) PROGRAM GOALS AND POLICIES.—

"(1) CONGRESSIONAL GOALS.—It is the policy of Congress that the Federal land management agencies develop and implement high quality recreation programs adequate to meet the needs of the American people and to fund a portion of the cost of providing recreation services through recreation fees.

"(2) ADMINISTRATIVE POLICIES.—The administering Secretaries shall jointly issue an integrated policy for the establishment and collection of recreation fees under this section. Such policy shall—

"(A) permit flexibility with regard to the amounts charged;

"(B) provide for maximization of the number of persons who pay fees to ensure that fees remain at the lowest possible level;

"(C) provide that comparable fees be charged by the several Federal agencies for similar services and facilities;

"(D) provide for the establishment of fees in a manner which is equitable among user groups and which accounts for any other fees, such as commercial tour fees and concession fees, which are paid by user groups and used on Federal lands for recreational purposes;

"(E) define administrative overhead and specify accounting procedures to ensure that administrative overhead is not included in the cost of visitor services provided;

"(F) provide for a uniform procedure for accounting for fees collected under this section; and

"(G) recognize the importance of the convenience of the public by avoiding fee programs which are overly complex or which would require the payment of numerous fees at a particular area.

"(b) DEFINITIONS.—For the purposes of this section:

"(1) ADMINISTERING SECRETARIES.—The term 'administering Secretaries' means—

"(A) the Secretary of Agriculture with respect to the Forest Service; and

"(B) the Secretary of the Interior with respect to the National Park Service and Bureau of Land Management.

"(2) AGENCY.—The term 'agency' means an agency referred to in paragraph (1)(A) or (B).

"(3) AREA.—The term 'area' means an administrative area managed by an agency, such as a unit of the National Park System or a national forest.

"(4) AREA OF CONCENTRATED PUBLIC USE.—The term 'area of concentrated public use' means an area or portion of an area which—

"(A) provides developed facilities or services necessary to accommodate public use maintained at Federal expense;

"(B) contains at least one major visitor attraction, including (but not limited to) a lake, river, historical or cultural site, or geologic feature; and

"(C) provides public access such that admission fees can be cost-effectively collected.

"(5) RECREATION FEES.—The term 'recreation fees' means admission fees, recreation use fees, and fees granted to Federal agencies from States whether collected by agency personnel or others.

"(6) ADMISSION FEES.—The term 'admission fees' means fees charged for entry into any area designated by the administering Secretary.

"(7) RECREATION USE FEES.—The term 'recreation use fees' means the charge for specialized recreation services or facilities furnished at Federal Government expense, including (but not limited to) campgrounds, boat ramps, and back country camping by permit.

"(8) VISITOR SERVICES.—The term 'visitor services' means services and costs directly associated with management of recreation visitors to Federal lands, including (but not limited to) such programs as maintenance of facilities which serve primarily visitor recreation use (such as campgrounds, scenic roads, trails, visitor centers and picnic areas), public information and interpretation, resource protection directly related to public use (such as stream improvement to improve fishing or mitigation of impacts to resources resulting from visitor use), and other activities of personnel assigned predominantly to management of visitors or public safety programs, but not including costs of regional and Washington headquarters offices or any administrative services such as personnel, budget and finance, and procurement.

"(9) CONCESSION FEES.—The term 'concession fees' means fees paid to the United States pursuant to provisions of law other than this section for the privilege of providing concession services, fees paid for the lease of government-owned facilities, and non-Federal amounts paid for construction of visitor facilities.

"(c) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to improve the quality of the visitor experience on Federal lands, the administering Secretaries shall establish and implement a fee program in accordance with this section which provides for partial recovery of the costs of visitor services provided through admission fees, recreation use fees, and concession fees. In carrying out such program, the administering Secretaries are authorized and directed to collect admission fees in accordance with this section at areas administered by the National Park Service and areas of concentrated public use. In addition, the administering Secretaries shall collect recreation use fees at areas under their administration.

"(2) FACTORS IN ESTABLISHING AND ADJUSTING AMOUNT OF FEES.—(A) All fees established pursuant to this section shall be fair and equitable, taking into consideration the cost to the Federal Government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by other public and private entities, the economic and administrative feasibility of fee collection, convenience to the recreation user, and other pertinent factors.

"(B) Any adjustments in fees shall take into account the factors specified in subparagraph (A). Any increases in fees shall be on an incremental basis over time.

"(3) PUBLIC COMMENT AND FEDERAL REGISTER NOTICE ON ADMISSION AND COMMERCIAL TOUR FEES.—(A) In the case of public admission fees, the administering Secretaries shall publish in the Federal Register, for a 30-day comment period, a proposed schedule of all changes to such fees not later than six months prior to such fee changes.

"(B) In the case of changes to commercial tour fees or initiating a new commercial tour fee, the administering Secretaries shall publish in the Federal Register—

"(i) for a 30-day comment period, a proposed schedule of all changes in such fees not later than 14 months prior to such fee change or initiation; and

"(ii) a final schedule not later than 12 months prior to such fee change or initiation.

"(4) CONTINUATION OF FEE AUTHORITY.—Until an admission or commercial tour fee is initiated and in effect under this section, the admission or commercial tour fee at an area administered by the agencies shall be determined in accordance with the applicable laws in effect on the day before the date of enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996.

"(5) NOTICE OF FEES.—Clear notice that a fee has been established pursuant to this section, and the amount thereof, shall be prominently posted at appropriate locations in each area and shall be included in agency publications distributed with respect to such areas.

"(6) FEE COLLECTION PERSONNEL.—Personnel exclusively assigned to fee collection duties, which are over and above the number of such personnel assigned exclusively to fee collection duties on the day prior to enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996, shall not be counted against any full-time equivalent ceiling established for that agency.

"(d) RECREATION FEES.—

"(1) ADMISSION FEES.—Reasonable admission fees for a single visit to any designated area shall be established by the administering Secretary. A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based on a determination of the period of time reasonably and ordinarily necessary for such a single visit. The entrance fee for private parties and commercial tours shall be set in accordance with this section by the administering Secretaries and may be adjusted, taking into account the factors specified in subsection (c)(2). The Secretaries shall ensure that where appropriate the admission fee schedule developed provides economic incentives for use of alternative modes of transportation, including mass transportation, at areas experiencing high levels of automobile traffic. The administering Secretaries are authorized to implement admission fee practices which vary by day of the week, season, expedite entry and reduce congestion. The fee for single admission visits shall be no greater than $10 per person or $25 per vehicle.

"(2) ANNUAL ADMISSION PERMITS: GOLDEN EAGLE PASSPORT.—(A) GOLDEN EAGLE PASSPORT.—For admission into any area at which admission fees are charged pursuant to this section, an admission permit, to be known as the 'Golden Eagle Passport', valid for a 12-month period, shall be available. The fee for the passport shall be set jointly by the administering Secretaries, taking into account the factors specified in subsection (c)(2). The permittee and all persons accompanying the permittee in a single, private, non-commercial vehicle or, alternatively, the permittee and the permittee's spouse, children, and parents accompanying the permittee shall be entitled to general admission into any area designated pursuant to this section. The permit shall be nontransferable, and the unlawful use thereof shall be punishable in accordance with regulations established pursuant to subsection (g). The permit shall be available for purchase at any such designated area. The fee for a Golden Eagle Passport shall be no greater than $50.

"(B) NON-FEDERAL SALE.—The administering Secretaries may authorize units of State or local government, organizations, businesses, and nonprofit entities to sell and collect admission fees, including the Golden Eagle Passport, subject to such conditions as the Secretaries may jointly prescribe. The Secretaries shall develop detailed guidelines for promotional advertising of non-Federal passport sales and monitor compliance with those guidelines. The Secretaries may authorize the seller or sellers to maintain an inventory of Golden Eagle Passports for periods not to exceed six months and to withhold amounts up to, but not exceeding, eight percent of the gross fees collected from Golden Eagle Passport sales as reimbursement for actual expenses of the sales.

"(C) DISCOUNT FOR PERSONS 62 YEARS OF AGE OR OLDER.—The administering Secretaries shall provide for the sale of the Golden Eagle Passport to persons 62 years of age or older at a rate which is no more than 50 percent of the established rate for the Golden Eagle Passport. Such passport shall provide the same privileges as any other passport issued pursuant to this subsection, except that such passport shall cover admission only for the purchaser and one accompanying individual.

"(3) ANNUAL GEOGRAPHIC ADMISSION PERMITS.—For admission into a specific designated area or into several specific areas located in a particular geographic region at which admission fees are charged pursuant to this section, the administering Secretary or Secretaries are authorized to make available an annual admission permit. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific area or areas indicated at the time of purchase. The fee for an annual geographic admission permit shall be no greater than $25.

"(4) GOLDEN ACCESS PASSPORT.—The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall ensure that a lifetime admission permit shall be issued only to persons who have been medically determined to be permanently disabled. A lifetime admission permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this section, notwithstanding the method of travel.

"(5) RECREATION USE FEES.—Each agency developing, administering, providing, or furnishing at Federal expense services for such activities as camping at campgrounds with basic sanitation and public safety services, back country camping under permit, developed swimming sites, boat launch facilities, group activities including picnic sites, managed parking lots, motorized recreation use and other recreation uses, shall in accordance with this section provide for the collection of recreation use fees at the place of use or any reasonably convenient location. The administering Secretary may establish both daily and annual recreation use fees. Fees may not be charged by any such agency for the use,

either singly or in any combination, of drinking water, wayside exhibits, overlook sites, toilet facilities, picnic tables, or visitor centers for areas where admission fees are charged.

"(6) COMMERCIAL TOUR USE FEE.—(A) For each area for which an admission fee is charged under this section, the administering Secretary shall charge an admission fee for each vehicle entering the area for the purpose of providing commercial tour services. Such admission fees shall be charged on a per vehicle basis and shall be deposited into the special account established under subsection (e).

"(B) The administering Secretary shall establish fees per commercial tour entry as follows:

"(i) $25 per vehicle with a passenger capacity of 25 persons or less; and

"(ii) $50 per vehicle with a passenger capacity of 26 or more persons

"(C) The administering Secretary may periodically make adjustments to such fees in accordance with subsection (c)(3)(B).

"(D) At Grand Canyon, Hawaii Volcanoes, and Haleakala National Parks only, the Secretary of the Interior is authorized to charge a fee for aircraft providing scenic tours of these areas. Fees for such aircraft use shall be in accordance with subparagraph (B), except as provided in subparagraph (E).

"(E) Within 12 months after the date of enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996, the Secretary of the Interior and the Secretary of Transportation shall jointly submit a report to the appropriate committees of Congress outlining revisions to the commercial tour fee schedule for aircraft which encourages the use of quiet aircraft technology.

"(7) TRANSPORTATION PROVIDED BY THE SECRETARY.—Where the administering Secretary provides transportation to visit all or a portion of any area, he may impose a charge for such service in lieu of an admission fee. Collection of such fees may occur at the transportation staging area or any reasonably convenient location, whether inside or outside of the area boundary. The administering Secretary may enter into arrangements with qualified public or private entities pursuant to which such entities may collect such fees. Such funds collected shall be retained at the area where the service was provided and expended for costs associated with the transportation system. The charge imposed under this paragraph shall not exceed the limits established in subsection (d)(1).

"(8) ACCESS PROVIDED BY CONCESSIONER.—Where the primary public access to an area at which an admission fee is charged is provided by a concessioner, the administering Secretary may not charge an admission fee.

"(9) FREE ADMISSION FOR PERSONS 12 YEARS OF AGE OR UNDER.—A person who is 12 years of age or under shall be charged no admission fee at any area at which admission fees are charged.

"(e) ESTABLISHMENT OF ACCOUNTS AND DEPOSIT OF RECREATION FEES.—

"(1) ESTABLISHMENT.—The Secretary of the Treasury shall establish a special account in the Treasury for each agency which collects recreation fees under this section. Within each such account, the administering Secretary shall separately account for receipts and disbursements of funds for each area.

"(2) DEPOSITS.—(A) The administering Secretary shall deposit in each agency account all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency).

"(B) All funds from the sale of the Golden Eagle Passport shall be divided among the agencies based on a formula which the administering Secretaries shall devise and which considers total recreation admission fees collected by the agency and total recreation use at designated admission fee areas provided by the agency. Funds from the sale of the Golden Eagle Passport shall be deposited as recreation fees collected into the appropriate agency account.

"(C) All funds from the sale of geographic admission permits under subsection (d)(3) shall be divided among the areas for which such permits were issued on the basis of visitor use, length of stay, and other pertinent factors as determined by the administering Secretaries and shall be deposited as recreation fees collected from those areas into the appropriate agency account.

"(3) FEE COLLECTION COSTS.—Notwithstanding any other provision of law, the administering Secretary may, in any fiscal year, withdraw from the special account established under paragraph (1) an amount up to 15 percent of all receipts collected under this section in the preceding fiscal year. The amounts so withdrawn shall be retained by the administering Secretaries, and shall be available, without further appropriation, for expenditure by the Secretary concerned to cover fee collection costs, and shall remain available until expended. For the purposes of this paragraph, for any fiscal year, the term 'fee collection costs' means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section.

"(4) USE OF SPECIAL ACCOUNTS.—Amounts covered into the special account for each agency during each fiscal year shall be available after the end of such fiscal year for appropriation for visitor services, except as provided in paragraphs (3) and (5). Funds credited to the special account shall remain available until expended.

"(5) AVAILABILITY OF RECREATION FEES.—(A) Of amounts deposited in special accounts (as established in paragraph (1)) in the Treasury for the National Park Service, beginning in fiscal year 1998, 100 percent of the amounts earned in the previous year in excess of the following amounts (except for amounts made available for fee collection costs under paragraph (3)) shall be made available to the National Park Service without further appropriation as follows:

Amount	*Fiscal year*
$ 85,000,000	*1998*
88,000,000	*1999*
91,000,000	*2000*
94,000,000	*2001*
97,000,000	*2002*
100,000,000	*2003*
103,000,000	*2004*
106,000,000	*2005*
109,000,000	*2006.*

"(B) Of the funds deposited in special accounts (as established in paragraph (1)) in the Treasury for the Forest Service and the Bureau of Land Management, beginning in fiscal year 1998 and extending through fiscal year 2006, 100 percent of the amounts earned in the previous year in excess of $10,000,000 and $4,000,000 respectively (except for amounts made available for fee collection costs under paragraph (3)) shall be made available without further appropriations.

"(C) Beginning in fiscal year 2007, and each fiscal year thereafter, the amount which shall be available without further appropriation for each agency shall be the amount in excess of the amounts specified for deposit in the Treasury in fiscal year 2006 under subparagraph (A) or (B), as the case may be.

"(6) USE OF RECREATION FEES.—Of the amounts made available without appropriation under paragraph (5), after the application of paragraph (3), 75 percent shall be allocated among the areas of each agency in the same proportion as fees collected from that specific area bear to the total amount of fees collected from all areas of that agency for the fiscal year. The remainder of the fees collected pursuant to this section shall be allocated among each agency's areas on the basis of need as determined by the Secretary. All such funds shall remain available until expended. Funds deposited into accounts under this paragraph may only be used (A) to fund visitor services on Federal lands, (B) for repair, rehabilitation, or replacement of visitor use facilities, and (C) for construction of new facilities as necessary to establish a recreation fee program at any area.

"(f) ENFORCEMENT OF FEE COLLECTION POLICIES.—In accordance with the provisions of this section, the administering Secretaries may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. Persons authorized by the administering Secretaries to enforce any such rules or regulations issued under this section may, within areas under the administration or authority of such administering Secretary and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of title 18, United States Code. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine as provided by law.

"(g) NON-FEDERAL RESERVATIONS.—The administering Secretary, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.

"(h) USE OF VOLUNTEERS FOR FEE COLLECTION.—When authorized by the administering Secretary, volunteers at designated areas may collect fees authorized or established pursuant to this section. The administering Secretary shall ensure that such volunteers have adequate training for this purpose. The administering Secretary may require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond.

"(i) MITIGATION OF ANY IMPACTS OF RECREATIONAL FEES ON LOW-INCOME INDIVIDUALS.—In carrying out this section, the administering Secretaries shall implement such programs as are necessary to ensure any impacts of recreational fees on low-income persons are minimized. The administering Secretaries shall determine any effects on low-income individuals of recreation use and admission fees and shall jointly submit recommendations to the Congress regarding actions to be taken to resolve such impacts.

"(j) LIMITATIONS ON FEES.—

"(1) ACTIVITIES NOT SUBJECT TO FEES.—Nothing in this section shall be construed to—

"(A) authorize Federal hunting or fishing licenses or fees;

"(B) affect any rights or authority of the States with respect to fish and wildlife;

"(C) authorize the collection of fees from any person who has a right of access for hunting or fishing privileges under a specific provision of law or treaty;

"(D) authorize charges for commercial or other activities not related to recreation; or

"(E) authorize an admission fee or a commercial tour fee at any area for organized school groups on outings conducted for educational purposes.

"(2) THROUGH TRAVEL.—No admission fee shall be charged for travel by private, noncommercial vehicle or commercial tour vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101, title 23, United States Code, which is commonly used by the public as a means of travel between two places either or both of which are outside the area. Nor shall any fee be charged for travel by private, noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area.

"(3) PERSONS CONDUCTING GOVERNMENTAL BUSINESS.—No admission fee shall be charged to persons engaged in the conduct of official Federal, State or local government business or to others authorized by the administering Secretary to conduct administrative duties within the area.

"(4) LIFETIME ADMISSION PERMITS.—No admission fee shall be charged under this section to any person who possesses a lifetime admission permit issued under section 4(a)(4) of this Act as in effect on the day before the date of the enactment of the Visitor Services Improvement and Outdoor Legacy Act of 1996.

"(k) ANNUAL REPORTING REQUIREMENTS.—Reports indicating the number and location of fee collection areas, visitor use statistics, fees collected, and other pertinent data, shall be coordinated and compiled by the administering Secretaries and transmitted to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. In order to enable Congress to discern the specific benefits of this section, the agencies shall include in the report area-specific details on what is being accomplished with funds provided pursuant to this section. These reports shall be transmitted annually not later than the submission of the President's budget under section 1105 of title 31, United States Code, and shall include any recommendations which the Secretaries may have with respect to improving the recreation fee program.

"(l) EXEMPTION OF FEES.—Amounts collected under this section which exceed the 1995 authorized recreation receipts shall not be taken into account for the purposes of the Act of May 23, 1908, and the Act of March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937, and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–1–4–460l–11), and any other provision of law relating to revenue allocation.".

(d) CONFORMING AMENDMENTS.—(1)(A)(i) Title I of the Department of the Interior and Related Agencies Appropriations Act, 1994 is amended by striking out the third proviso under the heading "ADMINISTRATIVE PROVISIONS" which is under the heading "NATIONAL PARK SERVICE" (related to recovery of costs associated with special use permits).

(ii) For those recreational activities for which a fee was charged prior to September 30, 1995, under the provision of law amended by subparagraph (A), the Secretary may continue to charge and retain all such fees until such park is authorized to charge and retain such fees under section 4 of the Land and Water Conservation Fund Act of 1965.

(B) Section 3 of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 3), is amended—

(i) by inserting "(a)" after "3."; and

(ii) by adding at the end the following:

"(b) The Secretary shall publish regulations governing commercial or nonrecreational special uses of units of the National Park System for which a fee is not authorized to be charged under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6), including (but not limited to) such activities as filming, special athletic or sporting events, weddings, cultural events and festivals. After adoption of such regulations, the Secretary may retain an amount equal to the direct administrative costs associated with issuing any permits and managing such activities (including, but not limited to, personnel costs, clean up costs, and other special services) for which such permit is issued. Such amounts retained shall be credited to the appropriation current at the time, and may only be spent for activities directly in support of the purposes for which the permit was issued. Such amounts retained are authorized to remain available until expended.".

(2) The following Public Laws are amended as follows:

(A) Section 5(e) of Public Law 87–657 (16 U.S.C. 459c–5(e)), as amended, is hereby repealed.

(B) Section 3(b) of Public Law 87–750 (16 U.S.C. 398e(b)) is hereby repealed.

(C) Section 4(e) of Public Law 92–589 (16 U.S.C. 460bb–3), as amended, is further amended by striking the first sentence.

(D) Section 6(j) of Public Law 95–348 (92 Stat. 493) is hereby repealed.

(E) Section 207 of Public Law 96–199 (94 Stat. 77) is hereby repealed.

(F) Section 106 of Public Law 96–287 (94 Stat. 600) is amended by striking the last sentence.

(G) Section 204 of Public Law 96–287 (94 Stat. 601) is amended by striking the last sentence.

(H) Section 5 of Public Law 96–428 (94 Stat. 1842) is hereby repealed.

(I) Public Law 100–55 (101 Stat. 371) is hereby repealed.

(J) Section 203 of the Alaska National Interest Lands Conservation Act shall not apply with respect to charging an admission fee at Denali National Park and Preserve in Alaska.

(e) SAVINGS PROVISION RELATING TO AREAS ADMINISTERED BY THE UNITED STATES ARMY CORPS OF ENGINEERS.—Areas at civil works projects administered by the United States Army Corps of Engineers shall be subject to section 4 of the Land and Water Conservation Fund Act of 1965, as in effect immediately before the enactment of this Act, in lieu of being subject to the amendments made by this section.

(f) APPLICABILITY OF THIS SECTION.—Notwithstanding any other provision of law, this section and the amendments and repeals made by this section shall apply to all recreation fees charged by the Forest Service, National Park Service, and Bureau of Land Management, except for recreation fees charged by the Forest Service pursuant to Public Law 104–134.

SEC. 704. GLACIER BAY NATIONAL PARK.

Section 3(g) of Public Law 91–383 (16 U.S.C. 1a-2(g)) is amended by: striking "and park programs" and inserting the following at the end: "Sixty percent of the fees paid by permittees for the privilege of entering into within Glacier Bay for the period beginning on the first full fiscal year following the date of enactment of this sentence shall be deposited into a special account and that such funds shall be available—

"(1) to the extent determined necessary, to acquire and preposition necessary and adequate emergency response equipment to prevent harm or the threat of harm to aquatic park resources from permittees; and

"(2) to conduct investigations to quantify any effect of permittees' activity on wildlife and other natural resource values of Glacier Bay National Park. The investigations provided for in this subsection shall be designed to provide information of value to the Secretary, in determining any appropriate limitations on permittees' activity in Glacier Bay. The Secretary shall protect park resources through limitations on permittees in Glacier Bay only if the need for such limitations is based on substantial verifiable scientific information, including, but not limited to, information made available through the investigations under this subsection. The Secretary may not impose any additional permittee operating conditions in the areas of air, water, and oil pollution beyond those determined and enforced by other appropriate agencies. When competitively awarding permits to enter Glacier Bay, the Secretary may take into account the relative impact particular permittees will have on park values and resources, provided that no operating conditions or limitations relating to noise abatement shall be imposed unless the Secretary determines, based on the weight of the evidence from all available studies including verifiable scientific information from the investigations provided for in this subsection, that such limitations or conditions are necessary to protect park values and resources. Fees paid by certain permittees for the privilege of entering into Glacier Bay shall not exceed $5 per passenger. For the purposes of this subsection, 'certain permittee' shall mean a permittee which provides overnight accommodations for at least 500 passengers for an itinerary of at least 3 nights, and 'permittee' shall mean a concessionaire providing visitor services within Glacier Bay. Nothing in this subsection authorizes the Secretary to require additional categories of permits in Glacier Bay National Park.".

TITLE VIII—MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

SEC. 801. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading "MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR", which appears under the heading "UNDER THE DEPARTMENT OF THE INTERIOR", as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SEC. 802. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

"(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.".

SEC. 803. FERAL BURROS AND HORSES.

(a) VEHICLES AND AIRCRAFT.—Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: "Nothing in this title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.".

(b) OZARK NATIONAL SCENIC RIVERWAYS.—Section 7 of the Act entitled "An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes", approved August 27, 1964 (16 U.S.C. 460m–6), is amended to read as follows:

"SEC. 7. (a) The Secretary, in accordance with this section, shall allow free-roaming horses in the Ozark National Scenic Riverways. Within 180 days after enactment of this section, the Secretary shall enter into an agreement with the Missouri Wild Horse League or another qualified nonprofit entity to provide for management of free-roaming horses. The agreement shall provide for cost-effective management of the horses and limit Federal expenditures to the costs of monitoring the agreement. The Secretary shall issue permits for adequate pastures to accommodate the historic population level of the free-roaming horse herd, which shall be not less than the number of horses in existence on the date of the enactment of this section nor more than 50.

"(b) The Secretary may not remove, or assist in, or permit the removal of any free-roaming horses from Federal lands within the boundary of the Ozark National Scenic Riverways unless—

"(1) the entity with whom the Secretary has entered into the agreement under subsection (a), following notice and a 90-day response period, substantially fails to meet the terms and conditions of the agreement;

"(2) the number of free-roaming horses exceeds 50; or

"(3) in the case of an emergency or to protect public health and safety, as defined in the agreement.

"(c) Nothing in this section shall be construed as creating liability for the United States for any damages caused by the free-roaming horses to property located inside or outside the boundaries of the Ozark National Scenic Riverways.".

SEC. 804. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in subsection (b) of the first section, by striking out "from such donations and bequests of money"; and

(2) by adding at the end thereof the following:

"SEC. 2. ADDITIONAL FUNCTIONS.

"(a) MUSEUM OBJECTS AND COLLECTIONS.—In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

"(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies, including the Smithsonian Institution, that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

"(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

"(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

"(b) REVIEW AND APPROVAL.—The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.".

(b) APPLICATION AND DEFINITIONS.—The Act entitled "An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes" approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following after section 2:

"SEC. 3. APPLICATION AND DEFINITIONS.

"(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

"(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.".

SEC. 805. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j) is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,500,000".

SEC. 806. KATMAI NATIONAL PARK AGREEMENTS.

(a) IN GENERAL.—Section 3 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (16 U.S.C. 1a-2), is amended—

(1) in paragraph (i), by striking the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following:

"(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.".

(b) VOLCANOLOGICAL RESEARCH IN KATMAI NATIONAL PARK.—Title II of the Alaska National Interest Lands Conservation Act (94 Stat. 2377 et seq.) is amended by adding at the end the following new section:

"SEC. 207. VOLCANOLOGICAL RESEARCH IN KATMAI NATIONAL PARK.

"The Secretary of Interior shall permit personnel, under the direction of the United States Geological Survey, to conduct research activities within Katmai National Park for the purpose of obtaining rock and core samples from the 1912 eruption and to make subsurface measurements for volcanological research.".

SEC. 807. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i-169i-1) is amended by striking the terms "Federal Lands Cleanup Day" each place it appears and inserting "Carl Garner Federal Lands Cleanup Day".

SEC. 808. FORT PULASKI NATIONAL MONUMENT, GEORGIA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking ": Provided, That" and all that follows and inserting a period.

SEC. 809. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".

SEC. 810. ROBERT J. LAGOMARSINO VISITOR CENTER.

(a) DESIGNATION.—The visitor center at the Channel Islands National Park, California, is designated as the "Robert J. Lagomarsino Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in section 301 is deemed to be a reference to the "Robert J. Lagomarsino Visitor Center".

SEC. 811. EXPENDITURE OF FUNDS OUTSIDE AUTHORIZED BOUNDARY OF ROCKY MOUNTAIN NATIONAL PARK.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on privately owned lands located outside the boundary of the park.

SEC. 812. DAYTON AVIATION.

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

SEC. 813. PROHIBITION ON CERTAIN TRANSFERS OF NATIONAL FOREST LANDS.

After the date of the enactment of this Act the Secretary of Agriculture shall not transfer (by exchange or otherwise) any lands owned by the United States and managed by the Secretary as part of the Angeles National Forest to any person unless the instrument of conveyance contains a restriction, enforceable by the Secretary,

on the future use of such land prohibiting the use of any portion of such land as a solid waste landfill. Such restriction shall be promptly enforced by the Secretary when and if a violation of the restriction occurs.

SEC. 814. GRAND LAKE CEMETERY.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(b) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled "Grand Lake Cemetery" and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

SEC. 815. NATIONAL PARK SERVICE ADMINISTRATIVE REFORM.

(a) NATIONAL PARK SERVICE HOUSING IMPROVEMENT.—

(1) PURPOSES.—The purposes of this section are—

(A) to develop where necessary an adequate supply of quality housing units for field employees of the National Park Service within a reasonable time frame;

(B) to expand the alternatives available for construction and repair of essential government housing;

(C) to rely on the private sector to finance or supply housing in carrying out this section, to the maximum extent possible, in order to reduce the need for Federal appropriations;

(D) to ensure that adequate funds are available to provide for long-term maintenance needs of field employee housing; and

(E) to eliminate unnecessary government housing and locate such housing as is required in a manner such that primary resource values are not impaired.

(2) GENERAL AUTHORITY.—To enhance the ability of the Secretary of the Interior (hereafter in this subsection referred to as "the Secretary"), acting through the Director of the National Park Service, to effectively manage units of the National Park System, the Secretary is authorized where necessary and justified to make available employee housing, on or off the lands under the administrative jurisdiction of the National Park Service, and to rent or lease such housing to field employees of the National Park Service at rates based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

(3) REVIEW AND REVISION OF HOUSING CRITERIA.—Upon the enactment of this Act, the Secretary shall review and revise the existing criteria under which housing is provided to employees of the National Park Service. Specifically, the Secretary shall examine the existing criteria with respect to what circumstances the National Park Service requires an employee to occupy Government quarters to provide necessary services, protect Government property, or because of a lack of availability of non-Federal housing in the geographic area.

(4) SUBMISSION OF REPORT.—A report detailing the results of the revisions required by paragraph (3) shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 180 days after the date of the enactment of this Act. The report shall include justifications for keeping, or for changing, each of the criteria or factors used by the Department of the Interior with regard to the provision of housing to employees of the National Park Service.

(5) REVIEW OF CONDITION OF AND COSTS RELATING TO HOUSING.—Using the revised criteria developed under paragraph (3), the Secretary shall undertake a review, for each unit of the National Park System, of existing government-owned housing provided to employees of the National Park Service. The review shall include an assessment of the physical condition of such housing and the suitability of such housing to effectively carry out the missions of the Department of the Interior and the National Park Service. For each unit of such housing, the Secretary shall determine whether the unit is needed and justified. The review shall include estimates of the cost of bringing each such unit that is needed and justified into usable condition that meets all applicable legal housing requirements or, if the unit is determined to be obsolete but is still warranted to carry out the missions of the Department of the Interior and the National Park Service, the cost of replacing the unit.

(6) AUTHORIZATION FOR HOUSING AGREEMENTS.—For those units of the National Park System for which the review required by paragraphs (3) and (5) has been completed, the Secretary is authorized, pursuant to the authorities contained in this subsection and subject to the appropriation of necessary funds in advance, to enter into housing agreements with housing entities under which such housing entities may develop, construct, rehabilitate, or manage housing, located on or off public lands, for rent or lease to National Park Service employees who meet the housing eligibility criteria developed by the Secretary pursuant to this Act.

(7) JOINT PUBLIC-PRIVATE SECTOR HOUSING PROGRAMS.—

(A) LEASE TO BUILD PROGRAM.—Subject to the appropriation of necessary funds in advance, the Secretary may—

(i) lease Federal land and interests in land to qualified persons for the construction of field employee quarters for any period not to exceed 50 years; and

(ii) lease developed and undeveloped non-Federal land for providing field employee quarters.

(B) COMPETITIVE LEASING.—Each lease under subparagraph (A)(i) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(C) TERMS AND CONDITIONS.—Each lease under subparagraph (A)(i)—

(i) shall stipulate whether operation and maintenance of field employee quarters is to be provided by the lessee, field employees or the Federal Government;

(ii) shall require that the construction and rehabilitation of field employee quarters be done in accordance with the requirements of the National Park Service and local applicable building codes and industry standards;

(iii) shall contain such additional terms and conditions as may be appropriate to protect the Federal interest, including limits on rents the lessee may charge field employees for the occupancy of quarters, conditions on maintenance and repairs, and agreements on the provision of charges for utilities and other infrastructure; and

(iv) may be granted at less than fair market value if the Secretary determines that such lease will improve the quality and availability of field employee quarters available.

(D) CONTRIBUTIONS BY UNITED STATES.—The Secretary may make payments, subject to appropriations, or contributions in kind either in advance of or on a continuing basis to reduce the costs of planning, construction, or rehabilitation of quarters on or off Federal lands under a lease under this paragraph.

(8) RENTAL GUARANTEE PROGRAM.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into a lease to build arrangement as set forth in paragraph (7) with further agreement to guarantee the occupancy of field employee quarters constructed or rehabilitated under such lease. A guarantee made under this paragraph shall be in writing.

(B) LIMITATIONS.—The Secretary may not guarantee—

(i) the occupancy of more than 75 percent of the units constructed or rehabilitated under such lease; and

(ii) at a rental rate that exceeds the rate based on the reasonable value of the housing in accordance with requirements applicable under section 5911 of title 5, United States Code.

In no event shall outstanding guarantees be in excess of $3,000,000.

(C) RENTAL TO GOVERNMENT EMPLOYEES.—A guarantee may be made under this subsection only if the lessee agrees to permit the Secretary to utilize for housing purposes any units for which the guarantee is made.

(D) FAILURE TO MAINTAIN A SATISFACTORY LEVEL OF OPERATION AND MAINTENANCE.—The lease shall be null and void if the lessee fails to maintain a satisfactory level of operation and maintenance.

(9) JOINT DEVELOPMENT AUTHORITY.—The Secretary may use authorities granted by statute in combination with one another in the furtherance of providing where necessary and justified affordable field employee housing.

(10) CONTRACTS FOR THE MANAGEMENT OF FIELD EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to the appropriation of necessary funds in advance, the Secretary may enter into contracts of any duration for the management, repair, and maintenance of field employee quarters.

(B) TERMS AND CONDITIONS.—Any such contract shall contain such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and assure that necessary quarters are available to field employees.

(11) LEASING OF SEASONAL EMPLOYEE QUARTERS.—

(A) GENERAL AUTHORITY.—Subject to subparagraph (B), the Secretary may lease quarters at or near a unit of the national park system for use as seasonal quarters for field employees. The rent charged to field employees under such a lease shall be a rate based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(B) LIMITATION.—The Secretary may only issue a lease under subparagraph (A) if the Secretary finds that there is a shortage of adequate and affordable seasonal quarters at or near such unit and that—

(i) the requirement for such seasonal field employee quarters is temporary; or

(ii) leasing would be more cost effective than construction of new seasonal field employee quarters.

(C) UNRECOVERED COSTS.—The Secretary may pay the unrecovered costs of leasing seasonal quarters under this paragraph from annual appropriations for the year in which such lease is made.

(12) SURVEY OF EXISTING FACILITIES.—The Secretary shall—

(A) complete a condition assessment for all field employee housing, including the physical condition of such housing and the necessity and

suitability of such housing for carrying out the agency mission, using existing information; and

(B) develop an agency-wide priority listing, by structure, identifying those units in greatest need for repair, rehabilitation, replacement, or initial construction.

(13) USE OF HOUSING-RELATED FUNDS.—Expenditure of any funds authorized and appropriated for new construction, repair, or rehabilitation of housing under this section shall follow the housing priority listing established by the agency under paragraph (13), in sequential order, to the maximum extent practicable.

(14) ANNUAL BUDGET SUBMITTAL.—The President's proposed budget to Congress for the first fiscal year beginning after enactment of this Act, and for each subsequent fiscal year, shall include identification of nonconstruction funds to be spent for National Park Service housing maintenance and operations which are in addition to rental receipts collected.

(15) STUDY OF HOUSING ALLOWANCES.—Within 12 months after the date of enactment of this Act, the Secretary shall conduct a study to determine the feasibility of providing eligible employees of the National Park Service with housing allowances rather than government housing. The study shall specifically examine the feasibility of providing rental allowances to temporary and lower paid permanent employees. Whenever the Secretary submits a copy of such study to the Office of Management and Budget, he shall concurrently transmit copies of the report to the Resources Committee of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(16) STUDY OF SALE OF EMPLOYEE HOUSING.—Within 18 months of the date of the enactment of the Act, the Secretary shall complete a study of the sale of Government quarters to a cooperative consisting of field employees. The Secretary shall examine the potential benefits to the Government as well as the employees and any risks associated with such a program.

(17) GENERAL PROVISIONS.—

(A) CONSTRUCTION LIMITATIONS ON FEDERAL LANDS.—The Secretary may not utilize any lands for the purposes of providing field employee housing under this section which will impact primary resource values of the area or adversely affect the mission of the agency.

(B) RENTAL RATES.—To the extent practicable, the Secretary shall establish rental rates for all quarters occupied by field employees of the National Park Service that are based on the reasonable value of the quarters in accordance with requirements applicable under section 5911 of title 5, United States Code.

(C) EXEMPTION FROM LEASING REQUIREMENTS.—The provisions of section 5 of the Act of July 15, 1968 (82 Stat. 354, 356; 16 U.S.C. 460l-22), and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412), shall not apply to leases issued by the Secretary under this section.

(18) PROCEEDS.—The proceeds from any lease under paragraph (7)(A)(i)(I), any lease under paragraph (11)(B), and any lease of seasonal quarters under subsection (l), shall be retained by the National Park Service. Such proceeds shall be deposited into the special fund established for maintenance and operation of quarters.

(19) DEFINITIONS.—For purposes of this subsection:

(A) The term "field employee" means—

(i) an employee of the National Park Service who is exclusively assigned by the National Park Service to perform duties at a field unit, and the members of their family; and

(ii) other individuals who are authorized to occupy Government quarters under section 5911 of title 5, United States Code, and for whom there is no feasible alternative to the provision of Government housing, and the members of their family.

(B) The term "land management agency" means the National Park Service, Department of the Interior.

(C) The term "primary resource values" means resources which are specifically mentioned in the enabling legislation for that field unit or other resource value recognized under Federal statute.

(D) The term "quarters" means quarters owned or leased by the Government.

(E) The term "seasonal quarters" means quarters typically occupied by field employees who are hired on assignments of 6 months or less.

(b) MINOR BOUNDARY REVISION AUTHORITY.—Section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(c)) is amended as follows:

(1) In the first sentence, by striking "Committee on Natural" and inserting "Committee on".

(2)(A) By striking ": Provided, however," and all that follows through "1965"; and

(B) by inserting "(1)" after "(c)" and by inserting at the end the following:

"(2) For the purposes of clause (i) of paragraph (1), in all cases except the case of technical boundary revisions (resulting from such causes as survey error or changed road alignments), the authority of the Secretary under such clause (i) shall apply only if each of the following conditions is met:

"(A) The sum of the total acreage of lands, waters, and interests therein to be added to the area and the total such acreage to be deleted from the area is not more than 5 percent of the total Federal acreage authorized to be included in the area and is less than 200 acres in size.

"(B) The acquisition, if any, is not a major Federal action significantly affecting the quality of the human environment, as determined by the Secretary.

"(C) The sum of the total appraised value of the lands, water, and interest therein to be added to the area and the total appraised value of the lands, waters, and interests therein to be deleted from the area does not exceed $750,000.

"(D) The proposed boundary revision is not an element of a more comprehensive boundary modification proposal.

"(E) The proposed boundary has been subject to a public review and comment period.

"(F) The Director of the National Park Service obtains written consent for the boundary modification from all property owners whose lands, water, or interests therein, or a portion of whose lands, water, or interests therein, will be added to or deleted from the area by the boundary modification.

"(G) The lands are adjacent to other Federal lands administered by the Director of the National Park Service.

Minor boundary revisions involving only deletions of acreage owned by the Federal Government and administered by the National Park Service may be made only by Act of Congress.".

(c) AUTHORIZATION FOR PARK FACILITIES TO BE LOCATED OUTSIDE THE BOUNDARIES OF ZION NATIONAL PARK.—In order to facilitate the administration of Zion National Park, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to expend donated or appropriated funds for the establishment of essential facilities for park administration and visitor use outside the boundaries, but within the vicinity, of the park. Such facilities and the use thereof shall be in conformity with approved plans for the park. The Secretary shall use existing facilities wherever feasible. Such facilities may only be constructed by the Secretary upon a finding that the location of such facilities would—

(1) avoid undue degradation of natural or cultural resources within the park;

(2) enhance service to the public; or

(3) provide a cost saving to the Federal Government.

The Secretary is authorized to enter into cooperative agreements with State or local governments or private entities to undertake the authority granted under this subsection. The Secretary is encouraged to identify and utilize funding sources to supplement any Federal funding used for these facilities.

(d) ELIMINATION OF UNNECESSARY CONGRESSIONAL REPORTING REQUIREMENTS.—

(1) REPEALS.—The following provisions are hereby repealed:

(A) Section 302(c) of the Act entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes (Public Law 95-344; 92 Stat. 478; 16 U.S.C. 2302(c)).

(B) Section 503 of the Act of December 19, 1980 (Public Law 96-550; 94 Stat. 3228; 16 U.S.C. 410ii-2).

(C) Subsections (b) and (c) of section 4 of the Act of October 15, 1982 (Public Law 97-335; 96 Stat. 1628; 16 U.S.C. 341 note).

(D) Section 7 of Public Law 89-671 (96 Stat. 1457; 16 U.S.C. 284f).

(E) Section 3(c) of the National Trails System Act (Public Law 90-543; 82 Stat. 919; 16 U.S.C. 1242(c)).

(F) Section 4(b) of the Act of October 24, 1984 (Public Law 98-540; 98 Stat. 2720; 16 U.S.C. 1a-8).

(G) Section 106(b) of the National Visitor Center Facilities Act of 1968 (Public Law 90-264; 82 Stat. 44; 40 U.S.C. 805(b)).

(H) Section 6(f)(7) of the Act of September 3, 1964 (Public Law 88-578; 78 Stat. 900; 16 U.S.C. 460l-8(f)(7)).

(I) Subsection (b) of section 8 of the Act of August 18, 1970 (Public Law 91-383; 90 Stat. 1940; 16 U.S.C. 1a-5(b)).

(J) The last sentence of section 10(a)(2) of the National Trails System Act (Public Law 90-543; 82 Stat. 926; 16 U.S.C. 1249(a)(2)).

(K) Section 4 of the Act of October 31, 1988 (Public Law 100-573; 102 Stat. 2891; 16 U.S.C. 460o note).

(L) Section 104(b) of the Act of November 19, 1988 (Public Law 100-698; 102 Stat. 4621).

(M) Section 1015(b) of the Urban Park and Recreation Recovery Act of 1978 (Public Law 95-625; 92 Stat. 3544; 16 U.S.C. 2514(b)).

(N) Section 105 of the Act of August 13, 1970 (Public Law 91-378; 16 U.S.C. 1705).

(O) Section 307(b) of the National Historic Preservation Act (Public Law 89-665; 16 U.S.C. 470w-6(b)).

(2) AMENDMENTS.—The following provisions are amended:

(A) Section 10 of the Archaeological Resources Protection Act of 1979, by striking the last sentence of subsection (c) (Public Law 96-95; 16 U.S.C. 470ii(c)).

(B) Section 5(c) of the Act of June 27, 1960 (Public Law 86-523; 16 U.S.C. 469a-3(c); 74 Stat. 220), by inserting a period after "Act" and striking "and shall submit" and all that follows.

(C) Section 7(a)(3) of the Act of September 3, 1964 (Public Law 88-578; 78 Stat. 903; 16 U.S.C. 460l-9(a)(3)), by striking the last sentence.

(D) Section 111 of the Petroglyph National Monument Establishment Act of 1990 (Public Law 101-313; 104 Stat. 278), by striking the second sentence.

(E) Section 307(a) of the National Historic Preservation Act (Public Law 89-665; 16 U.S.C. 470w-6(a)) is amended by striking the first and second sentences.

(F) Section 101(a)(1)(B) of the National Historic Preservation Act (Public Law 89-665; 16 U.S.C. 470a) by inserting a period after "Register" the last place such term appears and by striking "and submitted" and all that follows.

(e) SENATE CONFIRMATION OF THE DIRECTOR OF THE NATIONAL PARK SERVICE.—

(1) IN GENERAL.—The first section of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1; commonly referred to as the "National Park Service Organic Act"), is amended in the first sentence by striking "who shall be appointed by the Secretary" and all that follows and inserting "who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation. The Director shall select two Deputy Directors. The first Deputy Director shall have responsibility for National Park Service operations, and the second Deputy Director shall have responsibility for other programs assigned to the National Park Service.".

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on February 1, 1997, and shall apply with respect to the individual (if any) serving as the Director of the National Park Service on that date.

(f) NATIONAL PARK SYSTEM ADVISORY BOARD AUTHORIZATION.—

(1) NATIONAL PARK SYSTEM ADVISORY BOARD.—Section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463) is amended as follows:

(A) In subsection (a) by striking the first 3 sentences and inserting in lieu thereof: "There is hereby established a National Park System Advisory Board, whose purpose shall be to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board. Members of the Board shall be appointed on a staggered term basis by the Secretary for a term not to exceed 4 years and shall serve at the pleasure of the Secretary. The Board shall be comprised of no more than 12 persons, appointed from among citizens of the United States having a demonstrated commitment to the mission of the National Park Service. Board members shall be selected to represent various geographic regions, including each of the administrative regions of the National Park Service. At least 6 of the members shall have outstanding expertise in 1 or more of the following fields: history, archeology, anthropology, historical or landscape architecture, biology, ecology, geology, marine science, or social science. At least 4 of the members shall have outstanding expertise and prior experience in the management of national or State parks or protected areas, or national or cultural resources management. The remaining members shall have outstanding expertise in 1 or more of the areas described above or in another professional or scientific discipline, such as financial management, recreation use management, land use planning or business management, important to the mission of the National Park Service. At least 1 individual shall be a locally elected official from an area adjacent to a park. The Board shall hold its first meeting by no later than 60 days after the date on which all members of the Advisory Board who are to be appointed have been appointed. Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. The Board may adopt such rules as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel. All members of the Board shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of title 5, United States Code. With the exception of travel and per diem as noted above, a member of the Board who is otherwise an officer or employee of the United States Government shall serve on the Board without additional compensation.".

(B) By redesignating subsections (b) and (c) as (f) and (g) and by striking from the first sentence of subsection (f), as so redesignated "1995" and inserting in lieu thereof "2006".

(C) By adding the following new subsections after subsection (a):

"(b)(1) The Secretary is authorized to hire 2 full-time staffers to meet the needs of the Advisory Board.

"(2) Service of an individual as a member of the Board shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Board, or as an employee of the Board, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

"(c)(1) Upon request of the Director, the Board is authorized to—

"(A) hold such hearings and sit and act at such times,

"(B) take such testimony,

"(C) have such printing and binding done,

"(D) enter into such contracts and other arrangements,

"(E) make such expenditures, and

"(F) take such other actions,

as the Board may deem advisable. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(2) The Board may establish committees or subcommittees. Any such subcommittees or committees shall be chaired by a voting member of the Board.

"(d) The provisions of the Federal Advisory Committee Act shall apply to the Board established under this section with the exception of section 14(b).

"(e)(1) The Board is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Board may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request made by a member of the Board.

"(2) Upon the request of the Board, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality to the Board, on a nonreimbursable basis, to assist the Board in carrying out its duties under this section.

"(3) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies in the United States.".

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Park System Advisory Board $200,000 per year to carry out the provisions of section 3 of the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463).

(3) EFFECTIVE DATE.—This subsection shall take effect on December 7, 1997.

(g) CHALLENGE COST-SHARE AGREEMENT AUTHORITY.—

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary of the Interior with respect to any unit or program of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a))), any affiliated area, or any designated National Scenic or Historic Trail.

(B) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(2) CHALLENGE COST-SHARE AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators.

(3) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary of the Interior is authorized to provide the Federal funding share from any funds available to the National Park Service.

(h) COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.—Public Law 101–337 is amended as follows:

(1) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

"(d) 'Park system resource' means any living or non-living resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(2) In section 1 (16 U.S.C. 19jj) by adding at the end thereof the following:

"(g) 'Marine or aquatic park system resource' means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(3) In section 2(b) (16 U.S.C. 19jj–1(b)), by inserting "any marine or aquatic park resource" after "any park system resource".

SEC. 816. MINERAL KING ADDITION PERMITS.

Paragraph (2) of section 314(d) of the National Parks and Recreation Act of 1978 (16 U.S.C. 45f(d)) is amended by adding at the end the following:

"(C)(i) Notwithstanding subparagraphs (A) and (B), until the date of the death of the last cabin permittee of record on the date of enactment of this Act, the Secretary may renew or extend permits or leases continued under subparagraph (A) or (B) to the heirs of lessees or permittees (including heirs to whom such leases or permits have been renewed or extended) who have died prior to the enactment of this subparagraph or may die after its enactment in the same manner (including by requiring the payment of annual fees based on fair market value) as leases or permits may be renewed or extended under subparagraph (B), unless—

"(I) the permit or lease is incompatible with the protection of the parks resources; or

"(II) the land occupied under the leases or permit will be used for some other park purpose in accordance with the comprehensive management plan prepared under subsection (e), and the Secretary has available sufficient funds to carry out such use.

"(ii) For the purposes of this subparagraph, the term 'heirs' means—

"(I) those family members of the deceased permittee or lessee, designated by the permittee or lessee, in a manner prescribed by the Secretary, as heirs eligible for renewals or extensions under this subparagraph, and

"(II) in the absence of such designation, those family members of the deceased permittee or lessee who are entitled to inherit the estate of the permittee or lessee.".

SEC. 817. WILLIAM B. SMULLIN VISITOR CENTER.

(a) DESIGNATION.—The Bureau of Land Management's visitors center in Rand, Oregon is hereby designated as the "William B. Smullin Visitor Center".

(b) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "William B. Smullin Visitor Center".

SEC. 818. CALUMET ECOLOGICAL PARK.

(a) FEASIBILITY STUDY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall conduct a study of the feasibility of establishing an urban ecological park to be known as "Calumet Ecological Park", in the Lake Calumet area situated between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore.

(2) PARTICULARS OF STUDY.—The study under paragraph (1) shall include consideration of the following:

(A) The suitability of establishing a park in the Lake Calumet area that—

(i) conserves and protects the wealth of natural resources threatened by development and pollution in the Lake Calumet area; and

(ii) consists of a number of nonadjacent sites forming green corridors between the Illinois and Michigan Canal National Heritage Corridor and the Indiana Dunes National Lakeshore, that are based on the lakes and waterways in the area.

(B) The long term future use of the Lake Calumet area.

(C) Ways in which a Calumet Ecological Park would—

(i) benefit and enhance the cultural, historical, and natural resources of the Lake Calumet area; and

(ii) preserve natural lands and habitats in the Lake Calumet area and northwest Indiana.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing findings and recommendations of a study under this section.

SEC. 819. ACQUISITION OF CERTAIN PROPERTY ON SANTA CRUZ ISLAND.

Section 202 of Public Law 96-199 (16 U.S.C. 410ff-1) is amended by adding the following new subsection at the end thereof:

"(e)(1) Notwithstanding any other provision of law, effective 90 days after the date of enactment of this subsection, all right, title, and interest in and to, and the right to immediate possession of, the real property on the eastern end of Santa Cruz Island which is known as the Gherini Ranch is hereby vested in the United States, except for the reserved rights of use and occupancy set forth in Instrument No. 90-027494 recorded in the Official Records of the County of Santa Barbara, California.

"(2) The United States shall pay just compensation to the owners of any real property taken pursuant to this subsection, determined as of the date of taking. The full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such real property plus interest or the valuation of such real property awarded by judgment plus interest. Interest shall accrue from the date of taking to the date of payment. Interest shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from the date of enactment of this subsection to the last day of the month preceding the date on which payment is made. Payment shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

"(3) In the absence of a negotiated settlement, or an action by the owner, within 1 year after the date of enactment of this subsection, the Secretary shall initiate a proceeding, seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.".

"(4) The Secretary shall not allow any unauthorized use of the lands to be acquired under this subsection, except that the Secretary shall permit the orderly termination of all current activities and the removal of any equipment, facilities, or personal property.".

TITLE IX—HERITAGE AREAS

SEC. 901. BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR.

(a) BOUNDARY CHANGES.—Section 2 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and water generally depicted on the map entitled 'Blackstone River Valley National Heritage Corridor Boundary Map', numbered BRV-80-80,011, and dated May 2, 1993.".

(b) TERMS.—Section 3(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by inserting before the period at the end the following: ", but may continue to serve after the expiration of this term until a successor has been appointed".

(c) REVISION OF PLAN.—Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of the enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

"(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

(d) EXTENSION OF COMMISSION.—Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended to read as follows:

"SEC. 7. TERMINATION OF COMMISSION.

"The Commission shall terminate on the date that is 10 years after the date of enactment of this section.".

(e) IMPLEMENTATION OF PLAN.—Subsection (c) of section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Act, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

"(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

"(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

"(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

"(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

"(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Act in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.".

(f) LOCAL AUTHORITY.—Section 5 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

"(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Act shall be construed to affect or to authorize the Commission to interfere with—

"(1) the rights of any person with respect to private property; or

"(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or any political subdivision of the Commonwealth.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of law regarding limitations on funding for heritage areas, section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law

99–647; 16 U.S.C. 461 note), as amended, is further amended:

(1) in subsection (a), by striking "$350,000" and inserting "$650,000"; and

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

"(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c) not to exceed $5,000,000.".

SEC. 902. ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98–398; 16 U.S.C. 461 note) is amended by inserting after section 117 the following new section:

"SEC. 118. STUDY OF POSSIBLE ADDITIONS TO CORRIDOR

"The Commission shall undertake a study to determine whether the Joliet Army Ammunition Plant and the Calumet-Sag and Chicago Sanitary and Ship Canals should be added to the corridor. The study shall specifically examine the relationship between the purposes of this Act and the areas proposed for study and shall identify any specific resources which are related to the purposes for which the corridor was established. The study shall propose boundaries which provide for the inclusion of any related resources within the corridor. The Commission shall submit the study to the Secretary and the appropriate congressional committees. Upon receipt of the study, the Secretary shall determine which lands (if any) should be added to the corridor and shall so notify the appropriate congressional committees.".

TITLE X—MISCELLANEOUS

Subtitle A—Tallgrass Prairie National Preserve

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Tallgrass Prairie National Preserve Act of 1996".

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) of the 400,000 square miles of tallgrass prairie that once covered the North American Continent, less than 1 percent remains, primarily in the Flint Hills of Kansas;

(2) in 1991, the National Park Service conducted a special resource study of the Spring Hill Ranch, located in the Flint Hills of Kansas;

(3) the study concludes that the Spring Hill Ranch—

(A) is a nationally significant example of the once vast tallgrass ecosystem, and includes buildings listed on the National Register of Historic Places pursuant to section 101 of the National Historic Preservation Act (16 U.S.C. 470a) that represent outstanding examples of Second Empire and other 19th Century architectural styles; and

(B) is suitable and feasible as a potential addition to the National Park System; and

(4) the National Park Trust, which owns the Spring Hill Ranch, has agreed to permit the National Park Service—

(A) to purchase a portion of the ranch, as specified in this subtitle; and

(B) to manage the ranch in order to—

(i) conserve the scenery, natural and historic objects, and wildlife of the ranch; and

(ii) provide for the enjoyment of the ranch in such a manner and by such means as will leave the scenery, natural and historic objects, and wildlife unimpaired for the enjoyment of future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to preserve, protect, and interpret for the public an example of a tallgrass prairie ecosystem on the Spring Hill Ranch, located in the Flint Hills of Kansas; and

(2) to preserve and interpret for the public the historic and cultural values represented on the Spring Hill Ranch.

SEC. 1003. DEFINITIONS.

In this subtitle:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the Advisory Committee established under section 1007.

(2) PRESERVE.—The term "Preserve" means the Tallgrass Prairie National Preserve established by section 1004.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRUST.—The term "Trust" means the National Park Trust, Inc., a District of Columbia nonprofit corporation, or any successor-in-interest.

SEC. 1004. ESTABLISHMENT OF TALLGRASS PRAIRIE NATIONAL PRESERVE.

(a) IN GENERAL.—In order to provide for the preservation, restoration, and interpretation of the Spring Hill Ranch area of the Flint Hills of Kansas, for the benefit and enjoyment of present and future generations, there is established the Tallgrass Prairie National Preserve.

(b) DESCRIPTION.—The Preserve shall consist of the lands and interests in land, including approximately 10,894 acres, generally depicted on the map entitled "Boundary Map, Flint Hills Prairie National Monument" numbered NM-TGP 80,000 and dated June 1994, more particularly described in the deed filed at 8:22 a.m. of June 3, 1994, with the Office of the Register of Deeds in Chase County, Kansas, and recorded in Book L–106 at pages 328 through 339, inclusive. In the case of any difference between the map and the legal description, the legal description shall govern, except that if, as a result of a survey, the Secretary determines that there is a discrepancy with respect to the boundary of the Preserve that may be corrected by making minor changes to the map, the Secretary shall make changes to the map as appropriate, and the boundaries of the Preserve shall be adjusted accordingly. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service of the Department of the Interior.

SEC. 1005. ADMINISTRATION OF NATIONAL PRESERVE.

(a) IN GENERAL.—The Secretary shall administer the Preserve in accordance with this subtitle, the cooperative agreements described in subsection (f)(1), and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2 through 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

(b) APPLICATION OF REGULATIONS.—With the consent of a private owner of land within the boundaries of the Preserve, the regulations issued by the Secretary concerning the National Park Service that provide for the proper use, management, and protection of persons, property, and natural and cultural resources shall apply to the private land.

(c) FACILITIES.—For purposes of carrying out the duties of the Secretary under this subtitle relating to the Preserve, the Secretary may, with the consent of a landowner, directly or by contract, construct, reconstruct, rehabilitate, or develop essential buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property that is not owned by the Federal Government and is located within the Preserve.

(d) LIABILITY.—

(1) LIABILITY OF THE UNITED STATES AND ITS OFFICERS AND EMPLOYEES.—Except as otherwise provided in this subsection, the liability of the United States is subject to the terms and conditions of the Federal Tort Claims Act, as amended, 28 U.S.C. 2671 et seq., with respect to the claims arising by virtue of the Secretaries administration of the Preserve pursuant to this Act.

(2) LIABILITY OF LANDOWNERS.—

(A) The Secretary of the Interior is authorized, under such terms and conditions as he deems appropriate, to include in any cooperative agreement entered into in accordance with subsection (f)(1) an indemnification provision by which the United States agrees to hold harmless, defend and indemnify the landowner in full from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim of personal injury or property damage that occurs in connection with the operation of the Preserve under the agreement: Provided however, That indemnification shall not exceed $3 million per claimant per occurrence.

(B) The indemnification provision authorized by subparagraph (A) shall not include claims for personal injury or property damage proximately caused by the wanton or willful misconduct of the landowner.

(e) UNIT OF THE NATIONAL PARK SYSTEM.—The Preserve shall be a unit of the National Park System for all purposes, including the purpose of exercising authority to charge entrance and admission fees under section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a).

(f) AGREEMENTS AND DONATIONS.—

(1) AGREEMENTS.—The Secretary may expend Federal funds for the cooperative management of private property within the Preserve for research, resource management (including pest control and noxious weed control, fire protection, and the restoration of buildings), and visitor protection and use.

(2) DONATIONS.—The Secretary may accept, retain, and expend donations of funds, property (other than real property), or services from individuals, foundations, corporations, or public entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of this subtitle.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the end of the third full fiscal year beginning after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a general management plan for the Preserve.

(2) CONSULTATION.—In preparing the general management plan, the Secretary, acting through the Director of the National Park Service, shall consult with—

(A)(i) appropriate officials of the Trust; and

(ii) the Advisory Committee; and

(B) adjacent landowners, appropriate officials of nearby communities, the Kansas Department of Wildlife and Parks, and the Kansas Historical Society, and other interested parties.

(3) CONTENT OF PLAN.—The general management plan shall provide for the following:

(A) Maintaining and enhancing the tallgrass prairie within the boundaries of the Preserve.

(B) Public access and enjoyment of the property that is consistent with the conservation and proper management of the historical, cultural, and natural resources of the ranch.

(C) Interpretive and educational programs covering the natural history of the prairie, the cultural history of Native Americans, and the legacy of ranching in the Flint Hills region.

(D) Provisions requiring the application of applicable State law concerning the maintenance of adequate fences within the boundaries of the Preserve. In any case in which an activity of the National Park Service requires fences that exceed the legal fence standard otherwise applicable to the Preserve, the National Park Service shall pay the additional cost of constructing and maintaining the fences to meet the applicable requirements for that activity.

(E) Provisions requiring the Secretary to comply with applicable State noxious weed, pesticide, and animal health laws.

(F) Provisions requiring compliance with applicable State water laws and Federal and State waste disposal laws (including regulations) and any other applicable law.

(G) Provisions requiring the Secretary to honor each valid existing oil and gas lease for lands within the boundaries of the Preserve (as described in section 1004(b)) that is in effect on the date of enactment of this Act.

(H) Provisions requiring the Secretary to offer to enter into an agreement with each individual who, as of the date of enactment of this Act, holds rights for cattle grazing within the boundaries of the Preserve (as described in section 1004(b)).

(4) HUNTING AND FISHING.—The Secretary may allow hunting and fishing on Federal lands within the Preserve.

(5) FINANCIAL ANALYSIS.—As part of the development of the general management plan, the Secretary shall prepare a financial analysis indicating how the management of the Preserve may be fully supported through fees, private donations, and other forms of non-Federal funding.

SEC. 1006. LIMITED AUTHORITY TO ACQUIRE.

(a) IN GENERAL.—The Secretary shall acquire, by donation, not more than 180 acres of real property within the boundaries of the Preserve (as described in section 1004(b)) and the improvements on the real property.

(b) PAYMENTS IN LIEU OF TAXES.—For the purposes of payments made under chapter 69 of title 31, United States Code, the real property described in subsection (a)(1) shall be deemed to have been acquired for the purposes specified in section 6904(a) of that title.

(c) PROHIBITIONS.—No property may be acquired under this section without the consent of the owner of the property. The United States may not acquire fee ownership of any lands within the Preserve other than lands described in this section.

SEC. 1007. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established an advisory committee to be known as the "Tallgrass Prairie National Preserve Advisory Committee".

(b) DUTIES.—The Advisory Committee shall advise the Secretary and the Director of the National Park Service concerning the development, management, and interpretation of the Preserve. In carrying out those duties, the Advisory Committee shall provide timely advice to the Secretary and the Director during the preparation of the general management plan under section 1005(g).

(c) MEMBERSHIP.—The Advisory Committee shall consist of 13 members, who shall be appointed by the Secretary as follows:

(1) Three members shall be representatives of the Trust.

(2) Three members shall be representatives of local landowners, cattle ranchers, or other agricultural interests.

(3) Three members shall be representatives of conservation or historic preservation interests.

(4)(A) One member shall be selected from a list of persons recommended by the Chase County Commission in the State of Kansas.

(B) One member shall be selected from a list of persons recommended by appropriate officials of Strong City, Kansas, and Cottonwood Falls, Kansas.

(C) One member shall be selected from a list of persons recommended by the Governor of the State of Kansas.

(5) One member shall be a range management specialist representing institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) in the State of Kansas.

(d) TERMS.—

(1) IN GENERAL.—Each member of the Advisory Committee shall be appointed to serve for a term of 3 years, except that the initial members shall be appointed as follows:

(A) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 3 years.

(B) Four members shall be appointed, one each from paragraphs (1), (2), (3), and (4) of subsection (c), to serve for a term of 4 years.

(C) Five members shall be appointed, one each from paragraphs (1) through (5) of subsection (c), to serve for a term of 5 years.

(2) REAPPOINTMENT.—Each member may be reappointed to serve a subsequent term.

(3) EXPIRATION.—Each member shall continue to serve after the expiration of the term of the member until a successor is appointed.

(4) VACANCIES.—A vacancy on the Advisory Committee shall be filled in the same manner as an original appointment is made. The member appointed to fill the vacancy shall serve until the expiration of the term in which the vacancy occurred.

(e) CHAIRPERSON.—The members of the Advisory Committee shall select 1 of the members to serve as Chairperson.

(f) MEETINGS.—Meetings of the Advisory Committee shall be held at the call of the Chairperson or the majority of the Advisory Committee. Meetings shall be held at such locations and in such a manner as to ensure adequate opportunity for public involvement. In compliance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Committee shall choose an appropriate means of providing interested members of the public advance notice of scheduled meetings.

(g) QUORUM.—A majority of the members of the Advisory Committee shall constitute a quorum.

(h) COMPENSATION.—Each member of the Advisory Committee shall serve without compensation, except that while engaged in official business of the Advisory Committee, the member shall be entitled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(i) CHARTER.—The rechartering provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee.

SEC. 1008. RESTRICTION ON AUTHORITY.

Nothing in this subtitle shall give the Secretary authority to regulate lands outside the land area acquired by the Secretary under section 1006(a).

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this subtitle.

Subtitle B—Sterling Forest

SEC. 1011. PALISADES INTERSTATE PARK COMMISSION.

(a) FUNDING.—The Secretary of the Interior is authorized to provide funding to the Palisades Interstate Park Commission to be used for the acquisition of lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Sterling Forest Reserve", numbered SFR-60,001 and dated July 1, 1994. There are authorized to be appropriated for purposes of this section not more than $17,500,000. No funds made available under this section may be used for the acquisition of any lands or interest in lands without the consent of the owner thereof.

(b) LAND EXCHANGE.—The Secretary of the Interior is authorized to exchange unreserved unappropriated Federal lands under the administrative jurisdiction of the Secretary for the lands comprising approximately 2,220 acres depicted on the map entitled "Sterling Forest, Proposed Sale of Sterling Forest Lands" and dated July 25, 1996. The Secretary shall consult with the Governor of any State in which such unreserved unappropriated lands are located prior to carrying out such exchange. The lands acquired by the Secretary under this section shall be transferred to the Palisades Interstate Park Commission to be included within the Sterling Forest Reserve. The lands exchanged under this section shall be of equal value, as determined by the Secretary utilizing nationally recognized appraisal standards. The authority to exchange lands under this section shall expire on the date 18 months after the date of enactment of this Act.

Subtitle C—Additional Provisions

SEC. 1021. BLACK CANYON OF THE GUNNISON NATIONAL PARK COMPLEX.

(a) ESTABLISHMENT OF BLACK CANYON OF THE GUNNISON NATIONAL PARK.—

(1) There is hereby established the Black Canyon of the Gunnison National Park (hereinafter referred to as the "park") in the State of Colorado. The Black Canyon National Monument is abolished as such, and all lands and interests therein are hereby incorporated within and made part of the Black Canyon of the Gunnison National Park. Any reference to the Black Canyon of the Gunnison National Monument shall be deemed a reference to Black Canyon of the Gunnison National Park, and any funds available for the purposes of the monument shall be available for purposes of the park.

(2) The Secretary of the Interior (hereinafter referred to as the "Secretary") acting through the Director of the National Park Service shall manage the park, subject to valid existing rights, in accordance with this subsection and under the provisions of law generally applicable to units of the National Park System, including but not limited to the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and other applicable provisions of law.

(b) ESTABLISHMENT OF THE GUNNISON GORGE NATIONAL CONSERVATION AREA.—

(1) There is hereby established the Gunnison Gorge National Conservation Area (hereinafter referred to as the "conservation area") in the State of Colorado, consisting of approximately 64,139 acres as generally depicted on the map entitled "Black Canyon of the Gunnison National Park Complex—Map No. 9, dated July 29, 1996" (hereinafter referred to as the "map").

(2) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area, subject to valid existing rights, in accordance with this subsection, the Federal Land Management and Policy Act of 1976, and other applicable provisions of law.

(3) In addition to the use of motorized vehicles on established roadways, the use of motorized vehicles in the conservation area shall be allowed to the extent compatible, in accordance with existing off-highway vehicle designations as described in the current approved management plan, or as part of the comprehensive plan prepared pursuant to this subsection.

(4) If no later than 5 years after the date of enactment of this Act the United States acquires, from willing sellers only, lands that are depicted on the map as private lands within the conservation area as established by this section, such lands upon their acquisition by the United States shall be included in and managed as part of the conservation area.

(5) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.) certain lands in the conservation area comprised of approximately 22,111 acres, as generally depicted on the map, and which shall be known as the Gunnison Gorge Wilderness.

(6) That portion of the Gunnison Gorge Wilderness Study Area (Uncompahgre Basin Wilderness Final Environmental Impact Statement, 1989) not designated as wilderness by this Act, is no longer subject to the terms and conditions contained in section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) for management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation, and shall be managed for multiple use or other values in accordance with land use plans developed pursuant to section 202 of the Federal Land Policy and Management Act of 1976.

(7) Nothing in this subsection or any other Act shall constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this subsection.

(c) ESTABLISHMENT OF THE CURECANTI NATIONAL RECREATION AREA, AND THE DENVER AND RIO GRANDE RAILROAD NATIONAL HISTORIC SITE.—

(1) In order to conserve the scenic, natural, historic, archaeological, wildlife, and fishery resources, and to provide for the public use and enjoyment of the land withdrawn or acquired for, and the water areas created by the Wayne N. Aspinall Unit of the Colorado River Storage Project, there is hereby established the Curecanti National Recreation Area (hereinafter referred to as the "recreation area") in the State of Colorado. The recreation area shall consist of the lands and waters within the area designated "Curecanti National Recreation Area" as depicted on the map.

(2) The Secretary, acting through the Director of the National Park Service, shall manage the recreation area, subject to valid existing rights, in accordance with this subsection and under provisions of law generally applicable to units of the National Park System including but not limited to the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and other applicable provisions of law, except as otherwise provided in this subsection.

(3) The establishment of the recreation area and land transfer of administration under subsection (a) and (b) shall not affect or interfere with the validity of existing rights, including withdrawals, acquisitions and conveyances, made before the date of enactment of this section for reclamation or power purposes. Subject to their respective authorities under the Colorado River Storage Project Act of 1956 (42 U.S.C. 620 et seq.) and the Uncompahgre Project, operation, maintenance, and management of all facilities and improvements on and the management of lands occupied by dams, structures, administrative areas, or other facilities shall be the responsibility of the Secretary and the Secretary of Energy, acting through the Commissioner of the Bureau of Reclamation and the Western Area Power Administration. Such lands shall be delineated through a joint agreement among the Bureau of Reclamation, the National Park Service, and the Western Area Power Administration. The Secretary may enter into additional agreements which address sharing of jurisdiction and authorities on the delineated lands. All lands within the recreation area which have been withdrawn or acquired by the United States for reclamation purposes shall remain subject to the purposes and uses established under the Colorado River Storage Project Act of 1956 (42 U.S.C. 620 et seq.) and the Uncompahgre Project as originally authorized by the Secretary as the Gunnison Project on March 14, 1903 under the provisions of the Reclamation Act of October 17, 1902 (32 Stat. 388, 43 U.S.C. 391), as amended. The Secretary, acting through the Bureau of Reclamation, may exclude any area from the recreation area for reclamation or power purposes upon determining that it is in the national interest to do so.

(4) Subject to valid existing rights, all Federal lands and interests within the national recreation area administered by the Bureau of Land Management are withdrawn from disposition under the public land laws from location, entry, and patent under the mining laws of the United States, from the operation of mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, and the administrative jurisdiction of such lands is transferred to the National Park Service upon enactment of this section.

(5) Within the recreation area there is hereby established, subject to the provisions of this subsection, the Denver and Rio Grande National Historic Site (hereinafter referred to as the "historic site") consisting of the Denver and Rio Grande rolling stock and train trestle at Cimarron, as depicted on the map. The Secretary may include those portions of the historic railroad bed within the boundaries of the historic site which would serve to enhance or contribute to the interpretation of the development of the railroad and its role in the development of western Colorado.

(6) The Secretary is authorized to convey to the city of Gunnison, Colorado, or to such public agency as the Secretary deems appropriate, for an amount not to exceed fair market appraised value, the land known as the Riverway Tract in section 8, township 49 north, range 1 west, New Mexico principal meridian.

(7) The Secretary is authorized, upon a finding that it is not needed for public purposes, to convey without consideration by quit claim deed all right, title, and interest in the United States in and to parcels of ten acres or less which are encroached upon, as of the date of this section, by improvements occupied or used to such person or persons under claim or color of title by persons to whom no advance notice was given that such improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search or other land description indicating there was not such encroachment. Such lands so conveyed shall be deleted from the national recreation area.

(8) The Secretary shall complete an official boundary survey of the areas depicted on the map within three years of the date of this subsection.

(9) If no later than 3 years after the date of enactment of this title the United States acquires lands comprising approximately 520 acres adjacent to Colorado Highway 92 and the Curecanti National Recreation Area as designated by this title and as generally depicted on a map entitled "Hall Property, Colorado", dated September, 1996, such lands upon their acquisition by the United States from willing sellers only shall be included in and managed as part of such recreation area.

(d) THE ESTABLISHMENT OF THE BLACK CANYON OF THE GUNNISON NATIONAL PARK COMPLEX.—

(1) There is hereby established the Black Canyon of the Gunnison National Park Complex (hereinafter referred to as the "complex") in the State of Colorado. The purposes of the complex are to emphasize management of the Gunnison River and its environs while managing the components of the complex (the park, the conservation area, and the recreation area) according to their respective purposes and mandates; to seek out and promote efficiencies in the management of the complex; to integrate and coordinate planning efforts within the complex; and as permitted by agency mandates and policies, to utilize the resources of the involved agencies cooperatively to enhance public service, to resolve issues, and to provide a focal point for public contact. The complex shall include the following lands as depicted on the map:

(A) The park.

(B) The conservation area

(C) The recreation area.

(D) Those portions of lands comprising the Gunnison National Forest as depicted on the map.

(2) The Secretary, acting through the Director of the National Park Service, shall manage the park, recreation area, historic site and district; and acting through the Director of the Bureau of Land Management, shall manage the conservation area in accordance with this subsection, and other applicable provisions of law.

(3) The Secretary of Agriculture, acting through the Chief of the Forest Service shall manage, subject to valid existing rights, those portions of the forest that have been included in the complex in accordance with the laws, rules, and regulations pertaining to the National Forest System and this subsection.

(4) The Secretaries shall manage the areas under their jurisdiction within the complex in a consistent manner, and are authorized to share personnel, equipment, and other resources to reduce or eliminate duplication of effort.

(5) Within four years following the date of enactment of this section, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the United States House of Representatives a comprehensive plan for the long-range protection and management of the complex. The plan shall describe the appropriate uses and management of the complex consistent with the provisions of this section. The plan may incorporate appropriate decisions contained in any current management or activity plan for the complex. The plan may also incorporate appropriate wildlife habitat management or other plans that have been prepared for the lands within or adjacent to the complex, and shall be prepared in close consultation with appropriate Federal agencies and agencies of the State of Colorado and shall use information developed in previous studies of the lands within or adjacent to the complex.

(e) WATER RIGHTS.—Nothing in this section, nor in any action taken pursuant thereto under any other Act, shall constitute an express or implied reservation of water for any purpose. Nothing in this section, nor any actions taken pursuant thereto shall affect any existing water rights, including, but not limited to, any water rights held by the United States prior to the date of enactment of this section. Any water rights that the Secretary determines are necessary for the purposes of this section shall be acquired under the procedural and substantive requirements of the laws of the State of Colorado.

(f) RECREATIONAL AND MULTIPLE-USE ACTIVITIES.—

(1) In carrying out this section, in addition to other related activities that may be permitted pursuant to this section, the Secretaries shall provide for general recreation and multiple use activities that are considered appropriate and compatible within the areas of their respective jurisdiction, including, but not limited to, swimming, fishing, boating, rafting, hiking, horseback riding, camping and picnicking. The Secretaries shall also provide for certain multiple use activities, subject to valid existing rights, including grazing; and the maintenance of existing designated roads, stock driveways, and utility rights-of-way. Within the boundaries of the recreation area the Secretary may also provide for off-road vehicle use below high water levels, on frozen lake surfaces, and on related designated access routes; and other such uses as the Secretary may deem appropriate.

(2) The Secretaries shall permit hunting, fishing, noncommercial taking of fresh-water crustaceans, and trapping on the lands and waters

under the Secretaries jurisdiction in accordance with applicable laws and regulations of the United States and the State of Colorado, except that the Secretaries, after consultation with the Colorado Division of Wildlife, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Subject to valid existing rights, hunting and trapping will not be allowed within the boundaries of the park.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1022. NATIONAL PARK FOUNDATION.

(a) The Act entitled "An Act to establish the National Park Foundation", approved December 18, 1967 (16 U.S.C. 19e–19n), is amended—

(1) in section 1—

(A) by striking "therein" and inserting in lieu thereof "therein, and to develop and implement means of securing funds from the private sector, to enhance funding for the National Park System without supplanting appropriated funds otherwise available for the National Park System,"; and

(B) by striking "to accept and administer such gifts";

(2) in section 3—

(A) by inserting "(a)" after "SEC. 3."; and

(B) by inserting at the end:

"(b)(1) In furtherance of the purposes of this Act, the Foundation shall have exclusive authority to license or authorize persons to use such trademarks, tradenames, signs, symbols, emblems, insignia, logos, likenesses or slogans that are or may be in the future adopted and owned by the Foundation, and for which the Foundation has filed an application or applications with the United States Patent and Trademark Office, for the purposes of representing, promoting or advertising for commercial purposes or pecuniary gain that an individual, company, or particular good or service is an official sponsor or official supporter of the National Park System or National Park Service.

"(2) The authority provided in paragraph (1) shall be subject to the following conditions:

"(A) The criteria and guidelines for the competitive issuance and the maintenance of a license or authorization, and the issuance of each license or authorization, shall be subject to the prior written approval of the Secretary as being appropriate to the image of the National Park System and consistent with the management policies and practices of the National Park Service, and such approval authority may not be delegated. Criteria and guidelines developed under this paragraph shall be printed in the Federal Register and shall not take effect until 60 days after the date of publication.

"(B) For good cause, the Secretary of the Interior may, after consultation with the Foundation, terminate any license or authorization granted pursuant to this subsection.

"(C) Neither the Secretary of the Interior, the Foundation, nor any other person may authorize an individual, company, or particular good or service to represent, promote, or advertise, and no person may represent or imply, for commercial purposes or for pecuniary gain that it is an official sponsor or official supporter of any individual unit of the National Park System.

"(D) The advertisements and promotional activities undertaken by a licensee or authorized person shall be appropriate to the image of the National Park System and consistent with the management policies and practices of the National Park Service.

"(E) Neither the Secretary of the Interior, the Foundation, nor any other person may authorize an individual, company, or particular good or service to represent that it is endorsed by the National Park Service.

"(F) Any license or authorization issued pursuant to this subsection shall be for a term not to exceed 5 years and shall not grant any right or preference of renewal.

"(G) Nothing in this Act shall in any way restrict the authority of the President to manage White House matters or restrict or preclude the Statue of Liberty - Ellis Island Foundation, Inc. (the "Statue of Liberty Foundation"), so long as its activities are authorized by a Memorandum of Agreement with the Secretary of the Interior, from raising donations for the restoration of the Statue of Liberty and Ellis Island by, among other things, offering to any third parties exclusive rights to any trademark, tradename, sign, symbol, insignia, emblem, logo, likeness, or slogan owned by the Statue of Liberty Foundation.

"(F) Activities of the Foundation undertaken pursuant to this Act, including the licensing or authorizing of official sponsors and official supporters of the National Park System or National Park Service by the Foundation, shall not preclude charitable organizations or cooperating associations from conducting fundraising activities or selling merchandise to generate support for a unit or units of the National Park System or the National Park Service, so long as such activities do not convey a right to be considered as an official sponsor or official supporter of such unit or units as prohibited by subparagraph (B) or of the National Park System or National Park Service.

"(c) No license or authorization referred to in subsection (b) shall grant any person any right or authority to market, advertise, display, sell, or promote, any goods, products or services in any unit of the National Park System or in any related facility operated outside the boundaries of any unit, or to advertise or promote that it is an official sponsor or official supporter within the meaning of subsection (b) in any such unit or related facility.

"(2) No license or authorization may be granted to any person—

"(A) that is in litigation against the Department of the Interior; or

"(B) that has had a judgment rendered against it by a court of law for a violation of any Federal environmental law during the previous 5 years; or

"(C) which would create a conflict of interest or the appearance thereof between the Department of the Interior and such person.

(3) in section 4—

(A) by inserting "and section 8(b)" between "transfer" and the comma;

(B) by inserting "license," between "lease," and "invest"; and

(C) by striking "any business, nor shall the Foundation" and inserting in lieu thereof "business for pecuniary profit or gain, except for the purposes set forth in this Act; operate any commercial establishment or enterprise within any unit of the National Park System; engage in any lobbying activities as defined in section 3(7) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602(7)) concerning the management of the National Park System; or";

(4) in section 8—

(A) by inserting "(a)" after "SEC. 8."; and

(B) by inserting at the end:

"(b) All of the income in the Foundation, net of reasonable operating expenses, any contributions to local government pursuant to subsection (a), and reserves determined necessary or appropriate by the Board, shall be provided to or for the benefit of the National Park Service: Provided, That all such net income derived from the licenses and authorizations referred to in section 3(b) shall be expended in accordance with policies and priorities of the National Park Service on programs, projects, or activities that benefit the National Park System or National Park Service as identified by the Secretary in consultation with the Foundation Provided further, That no person designated as an official sponsor or supporter pursuant to section 3(b) shall be permitted to direct or stipulate how fees paid for such designated are to be expended.";

(5) in section 10—

(A) by inserting "(a)" after "SEC. 10."; and

(B) by inserting at the end:

"(b) Within 30 days of the execution of each license or authorization referred to in section 3(b), the Foundation shall transmit a copy thereof to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

"(c) No later than 5 years after the date of enactment of this subsection, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report assessing the cost, effectiveness, and effects of the licensing and authorization program established pursuant to section 3(b). The report shall include, but not be limited to, assessments of the effect of such program on—

"(1) visitation levels in the National Park System;

"(2) the image of the National Park System;

"(3) achievement of the needs and priorities of the National Park Service;

"(4) appropriations for the National Park System;

"(5) the costs of the Foundation and the Secretary of the Interior to administer the program."; and

(6) at the end, by inserting:

"SEC. 11. Whoever, without the authorization of the Foundation, uses for purposes of trade, to induce the sale of any good or service, to promote any commercial activity, or for other commercial purpose the name of the Foundation or any trademark, tradename, sign, symbol, emblem, insignia, logo, likeness, or slogan referred to in section 3(b)(1), or any facsimile or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to suggest falsely that an individual, company, or particular good or service is an official sponsor or official supporter of the National Park System or National Park Service, shall be subject to suit in a civil action by the Foundation for the remedies provided in the Act of July 5, 1946, 60 Stat. 427 (15 U.S.C. sec. 1051 et. seq.).".

(b) Section 1 of Public Law 88–504 (36 U.S.C. 1101), as amended, is further amended by adding at the end, "(78) The National Park Foundation.".

SEC. 1023. RECREATION LAKES.

(a) FINDINGS AND PURPOSES.—The Congress finds that the Federal Government, under the authority of the Reclamation Act and other statutes, has developed manmade lakes and reservoirs that have become a powerful magnet for diverse recreational activities and that such activities contribute to the well-being of families and individuals and the economic viability of local communities. The Congress further finds that in order to further the purposes of the Land and Water Conservation Fund, the President should appoint an advisory commission to review the current and anticipated demand for recreational opportunities at federally-managed manmade lakes and reservoirs through creative partnerships involving Federal, State and local governments and the private sector and to develop alternatives for enhanced recreational use of such facilities.

(b) COMMISSION.—The Land and Water Conservation Fund Act of 1965 (P.L. 88–578, 78 Stat. 897) is amended by adding at the end the following new section:

"SEC. 13. (a) The President shall appoint an advisory commission to review the opportunities for enhanced opportunities for water based recreation which shall submit a report to the President and to the Committee on Energy and Natural Resources of the Senate and in the House of Representatives to the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives within one year from the date of enactment of this section.

"(b) The members of the Commission shall include—

"(1) the Secretary of the Interior, or his designee;

"(2) the Secretary of the Army, or his designee;

"(3) the Chairman of the Tennessee Valley Authority, or his designee;

"(4) the Secretary of Agriculture, or his designee;

"(5) a person nominated by the National Governor's Association; and

"(6) four persons familiar with the interests of the recreation and tourism industry, conservation and recreation use, Indian tribes, and local governments, at least one of whom shall be familiar with the economics and financing of recreation related infrastructure.

"(c) The President shall appoint one member to serve as Chairman. Any vacancy on the Commission shall be filled in the same manner as the original appointment. Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. The Secretary of the Interior shall provide all financial, administrative, and staffing requirements for the Commission, including office space, furnishings, and equipment. The heads of other Federal agencies are authorized, at the request of the Commission, to provide such information or personnel, to the extent permitted by law and within the limits of available funds, to the Commission as may be useful to accomplish the purposes of this section.

"(d) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it deems advisable: Provided, That, to the maximum extent possible, the Commission shall use existing data and research. The Commission is authorized to use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States.

"(e) The report shall review the extent of water related recreation at Federal manmade lakes and reservoirs and shall develop alternatives to enhance the opportunities for such use by the public. In developing the report, the Commission shall—

"(1) review the extent to which recreation components identified in specific authorizations associated with individual federal manmade lakes and reservoirs have been accomplished,

"(2) evaluate the feasibility of enhancing recreation opportunities at federally-managed lakes and reservoirs under existing statutes,

"(3) consider legislative changes that would enhance recreation opportunities consistent with and subject to the achievement of the authorized purposes of federal water projects, and

"(4) make recommendations on alternatives for enhanced recreation opportunities including, but not limited to, the establishment of a National Recreation Lake System under which specific lakes would receive national designation and which would be managed through innovative partnership-based agreements between federal agencies, State and local units of government, and the private sector.

Any such alternatives shall be consistent with and subject to the authorized purposes for any manmade lakes and reservoirs and shall emphasize private sector initiatives in concert with State and local units of government.".

SEC. 1024. BISTI/DE-NA-ZIN WILDERNESS EXPANSION AND FOSSIL FOREST PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Bisti/De-Na-Zin Wilderness Expansion and Fossil Forest Protection Act".

(b) WILDERNESS DESIGNATION.—Section 102 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3155) is amended—

(1) in subsection (a)—

(A) by striking "wilderness, and, therefore," and all that follows through "System—" and inserting "wilderness areas, and as one component of the National Wilderness Preservation System, to be known as the 'Bisti/De-Na-Zin Wilderness'—";

(B) in paragraph (1), by striking ", and which shall be known as the Bisti Wilderness; and" and inserting a semicolon;

(C) in paragraph (2), by striking ", and which shall be known as the De-Na-Zin Wilderness." and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(3) certain lands in the Farmington District of the Bureau of Land Management, New Mexico, which comprise approximately 16,525 acres, as generally depicted on a map entitled 'Bisti/De-Na-Zin Wilderness Amendment Proposal', dated May 1992.";

(2) in the first sentence of subsection (c), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as soon as practicable after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(3) in subsection (d), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and where established prior to the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(4) by adding at the end the following new subsection:

"(e)(1) Subject to valid existing rights, the lands described in subsection (a)(3) are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(2) The Secretary of the Interior may issue coal leases in New Mexico in exchange for any preference right coal lease application within the area described in subsection (a)(3). Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(3) Operations on oil and gas leases issued prior to the date of enactment of subsection (a)(3) shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the ecological, educational, scientific, recreational, scenic, and other wilderness values of the lands described in subsection (a)(3) in existence on the date of enactment of subsection (a)(3). In order to satisfy valid existing rights on the lands described in subsection (a)(3), the Secretary of the Interior may exchange any oil and gas lease within this area for an unleased parcel outside this area of like mineral estate and with similar appraised mineral values.".

(c) EXCHANGES FOR STATE LANDS.—Section 104 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended—

(1) in the first sentence of subsection (b), by inserting after "of this Act" the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 120 days after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)";

(2) in subsection (c), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and as of the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)"; and

(3) in the last sentence of subsection (d), by inserting before the period the following: "with regard to the areas described in paragraphs (1) and (2) of subsection (a), and not later than 2 years after the date of enactment of subsection (a)(3) with regard to the area described in subsection (a)(3)".

(d) EXCHANGES FOR INDIAN LANDS.—Section 105 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3157) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of the Interior shall exchange any lands held in trust for the Navajo Tribe by the Bureau of Indian Affairs that are within the boundary of the area described in subsection (a)(3).

"(2) The lands shall be exchanged for lands within New Mexico approximately equal in value that are selected by the Navajo Tribe.

"(3) After the exchange, the lands selected by the Navajo Tribe shall be held in trust by the Secretary of the Interior in the same manner as the lands described in paragraph (1).".

(e) FOSSIL FOREST RESEARCH NATURAL AREA.—Section 103 of the San Juan Basin Wilderness Protection Act of 1984 (98 Stat. 3156) is amended to read as follows:

"SEC. 103. FOSSIL FOREST RESEARCH NATURAL AREA.

"(a) ESTABLISHMENT.—To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Research Natural Area (referred to in this section as the 'Area'), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled 'Fossil Forest', dated June 1983.

"(b) MAP AND LEGAL DESCRIPTION.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this paragraph, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

"(2) FORCE AND EFFECT.—The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

"(3) TECHNICAL CORRECTIONS.—The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

"(4) PUBLIC INSPECTION.—The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

"(c) MANAGEMENT.—

"(1) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

"(A) to protect the resources within the Area; and

"(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

"(2) MINING.—

"(A) WITHDRAWAL.—Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

"(B) COAL PREFERENCE RIGHTS.—The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

"(C) OIL AND GAS LEASES.—Operations on oil and gas leases issued prior to the date of enactment of this paragraph shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on the date of enactment of this paragraph.

"(3) GRAZING.—Livestock grazing on lands within the Area may not be permitted.

"(d) INVENTORY.—Not later than 3 full fiscal years after the date of enactment of this subsection, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e).

"(e) MANAGEMENT PLAN.—

"(1) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a management plan that describes the appropriate uses of the Area consistent with this Act.

"(2) CONTENTS.—The management plan shall include—

"(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

"(i) laboratory and field interpretation; and

"(ii) public education about the resources and values of the Area (including vertebrate fossils);

"(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

"(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

"(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.".

SEC. 1025. OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.

(a) DEFINITIONS.—In this section:

(1) BULL OF THE WOODS WILDERNESS.—The term "Bull of the Woods Wilderness" means the land designated as wilderness by section 3(4) of the Oregon Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132 note).

(2) OPAL CREEK WILDERNESS.—The term "Opal Creek Wilderness" means certain land in the Willamette National Forest in the State of Oregon comprising approximately 12,800 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996.

(3) SCENIC RECREATION AREA.—The term "Scenic Recreation Area" means the Opal Creek Scenic Recreation Area, comprising approximately 13,000 acres, as generally depicted on the map entitled "Proposed Opal Creek Wilderness and Scenic Recreation Area", dated July 1996 and established under subsection (c)(1)(C).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) PURPOSES.—The purposes of this section are—

(1) to establish a wilderness and scenic recreation area to protect and provide for the enhancement of the natural, scenic, recreational, historic and cultural resources of the area in the vicinity of Opal Creek;

(2) to protect and support the economy of the communities in the Santiam Canyon; and

(3) to provide increased protection for an important drinking water source for communities served by the North Santiam River.

(c) ESTABLISHMENT OF OPAL CREEK WILDERNESS AND SCENIC RECREATION AREA.—

(1) ESTABLISHMENT.—On a determination by the Secretary under paragraph (2)—

(A) the Opal Creek Wilderness, as depicted on the map described in subsection (a)(2), is hereby designated as wilderness, subject to the provisions of the Wilderness Act of 1964, shall become a component of the National Wilderness System, and shall be known as the Opal Creek Wilderness;

(B) the part of the Bull of the Woods Wilderness that is located in the Willamette National Forest shall be incorporated into the Opal Creek Wilderness; and

(C) the Secretary shall establish the Opal Creek Scenic Recreation Area in the Willamette National Forest in the State of Oregon, comprising approximately 13,000 acres, as generally depicted on the map described in subsection (a)(3).

(2) CONDITIONS.—The designations in paragraph (1) shall not take effect unless the Secretary makes a determination, not later than 2 years after the date of enactment of this title, that the following conditions have been met:

(A) the following have been donated to the United States in an acceptable condition and without encumbrances:

(i) all right, title, and interest in the following patented parcels of land—

(I) Santiam Number 1, mineral survey number 992, as described in patent number 39–92–0002, dated December 11, 1991;

(II) Ruth Quartz Mine Number 2, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991;

(III) Morning Star Lode, mineral survey number 993, as described in patent number 36–91–0011, dated February 12, 1991;

(ii) all right, title, and interest held by any entity other than the Times Mirror Land and Timber Company, its successors and assigns, in and to lands located in section 18, township 8 south, range 5 east, Marion County, Oregon, Eureka numbers 6, 7, 8, and 13 mining claims; and

(iii) an easement across the Hewitt, Starvation, and Poor Boy Mill Sites, mineral survey number 990, as described in patent number 36–91–0017, dated May 9, 1991. In the sole discretion of the Secretary, such easement may be limited to administrative use if an alternative access route, adequate and appropriate for public use, is provided.

(B) a binding agreement has been executed by the Secretary and the owners of record as of March 29, 1996, of the following interests, specifying the terms and conditions for the disposition of such interests to the United States Government—

(i) The lode mining claims known as Princess Lode, Black Prince Lode, and King Number 4 Lode, embracing portions of sections 29 and 32, township 8 south, range 5 east, Willamette Meridian, Marion County, Oregon, the claims being more particularly described in the field notes and depicted on the plat of mineral survey number 887, Oregon; and

(ii) Ruth Quartz Mine Number 1, mineral survey number 994, as described in patent number 39–91–0012, dated February 12, 1991.

(3) ADDITIONS TO THE WILDERNESS AND SCENIC RECREATION AREAS.—

(A) Lands or interests in lands conveyed to the United States under this subsection shall be included in and become part of, as appropriate, Opal Creek Wilderness or the Opal Creek Scenic Recreation Area.

(B) On acquiring all or substantially all of the land located in section 36, township 8 south, range 4 east, of the Willamette Meridian, Marion County, Oregon, commonly known as the Rosboro section by exchange, purchase from a willing seller, or by donation, the Secretary shall expand the boundary of the Scenic Recreation Area to include such land.

(C) On acquiring all or substantially all of the land located in section 18, township 8 south, range 5 east, Marion County, Oregon, commonly known as the Times Mirror property, by exchange, purchase from a willing seller, or by donation, such land shall be included in and become a part of the Opal Creek Wilderness.

(d) ADMINISTRATION OF THE SCENIC RECREATION AREA.—

(1) IN GENERAL.—The Secretary shall administer the Scenic Recreation Area in accordance with this section and the laws (including regulations) applicable to the National Forest System.

(2) OPAL CREEK MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 2 years after the date of establishment of the Scenic Recreation Area, the Secretary, in consultation with the advisory committee established under subsection (e)(1), shall prepare a comprehensive Opal Creek Management Plan (Management Plan) for the Scenic Recreation Area.

(B) INCORPORATION IN LAND AND RESOURCE MANAGEMENT PLAN.—Upon its completion, the Opal Creek Management Plan shall become part of the land and resource management plan for the Willamette National Forest and supersede any conflicting provision in such land and resource management plan.Nothing in this paragraph shall be construed to supersede the requirements of the Endangered Species Act or the National Forest Management Act or regulations promulgated under those Acts, or any other law.

(C) REQUIREMENTS.—The Opal Creek Management Plan shall provide for a broad range of land uses, including—

(i) recreation;

(ii) harvesting of nontraditional forest products, such as gathering mushrooms and material to make baskets; and

(iii) educational and research opportunities.

(D) PLAN AMENDMENTS.—The Secretary may amend the Opal Creek Management Plan as the Secretary may determine to be necessary, consistent with the procedures and purposes of this section.

(3) CULTURAL AND HISTORIC RESOURCE INVENTORY.—

(A) IN GENERAL.—Not later than 1 year after the date of establishment of the Scenic Recreation Area, the Secretary shall review and revise the inventory of the cultural and historic resources on the public land in the Scenic Recreation Area developed pursuant to the Oregon

Wilderness Act of 1984 (Public Law 98–328; 16 U.S.C. 1132).

(B) INTERPRETATION.—Interpretive activities shall be developed under the management plan in consultation with State and local historic preservation organizations and shall include a balanced and factual interpretation of the cultural, ecological, and industrial history of forestry and mining in the Scenic Recreation Area.

(4) TRANSPORTATION PLANNING.—

(A) IN GENERAL.—Except as provided in this subparagraph, motorized vehicles shall not be permitted in the Scenic Recreation Area.To maintain reasonable motorized and other access to recreation sites and facilities in existence on the date of enactment of this title, the Secretary shall prepare a transportation plan for the Scenic Recreation Area that—

(i) evaluates the road network within the Scenic Recreation Area to determine which roads should be retained and which roads should be closed;

(ii) provides guidelines for transportation and access consistent with this section;

(iii) considers the access needs of persons with disabilities in preparing the transportation plan for the Scenic Recreation Area;

(iv) allows forest road 2209 beyond the gate to the Scenic Recreation Area, as depicted on the map described in subsection (a)(2), to be used by motorized vehicles only for administrative purposes and for access by private inholders, subject to such terms and conditions as the Secretary may determine to be necessary; and

(v) restricts construction or improvement of forest road 2209 beyond the gate to the Scenic Recreation Area to maintaining the character of the road as it existed upon the date of enactment of this Act, which shall not include paving or widening.

In order to comply with subsection (f)(2), the Secretary may make improvements to forest road 2209 and its bridge structures consistent with the character of the road as it existed on the date of enactment of this Act.

(5) HUNTING AND FISHING.—

(A) IN GENERAL.—Subject to applicable Federal and State law, the Secretary shall permit hunting and fishing in the Scenic Recreation Area.

(B) LIMITATION.—The Secretary may designate zones in which, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment of the Scenic Recreation Area.

(C) CONSULTATION.—Except during an emergency, as determined by the Secretary, the Secretary shall consult with the Oregon State Department of Fish and Wildlife before issuing any regulation under this subsection.

(6) TIMBER CUTTING.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall prohibit the cutting and/or selling of trees in the Scenic Recreation Area.

(B) PERMITTED CUTTING.—

(i) IN GENERAL.—Subject to clause (ii), the Secretary may allow the cutting of trees in the Scenic Recreation Area only—

(I) for public safety, such as to control the continued spread of a forest fire in the Scenic Recreation Area or on land adjacent to the Scenic Recreation Area;

(II) for activities related to administration of the Scenic Recreation Area, consistent with the Opal Creek Management Plan; or

(III) for removal of hazard trees along trails and roadways.

(ii) SALVAGE SALES.—The Secretary may not allow a salvage sale in the Scenic Recreation Area.

(7) WITHDRAWAL.

(A) subject to valid existing rights, all lands in the scenic recreation area are withdrawn from—

(i) any form of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) disposition under the mineral and geothermal leasing laws.

(8) BORNITE PROJECT.—

(A) Nothing in this section shall be construed to interfere with or approve any exploration, mining, or mining-related activity in the Bornite Project Area, depicted on the map described in subsection (a)(3), conducted in accordance with applicable laws.

(B) Nothing in this section shall be construed to interfere with the ability of the Secretary to approve and issue, or deny, special use permits in connection with exploration, mining, and mining-related activities in the Bornite Project Area.

(C) Motorized vehicles, roads, structures, and utilities (including but not limited to power lines and water lines) may be allowed inside the Scenic Recreation Area to serve the activities conducted on land within the Bornite Project.

(D) After the date of enactment of this Act, no patent shall be issued for any mining claim under the general mining laws located within the Bornite Project Area.

(9) WATER IMPOUNDMENTS.—Notwithstanding the Federal Power Act (16 U.S.C. 791a et seq.), the Federal Energy Regulatory Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work in the Scenic Recreation Area, except as may be necessary to comply with the provisions of paragraph (8) with regard to the Bornite Project.

(10) RECREATION.—

(A) RECOGNITION.—Congress recognizes recreation as an appropriate use of the Scenic Recreation Area.

(B) MINIMUM LEVELS.—The management plan shall permit recreation activities at not less than the levels in existence on the date of enactment of this Act.

(C) HIGHER LEVELS.—The management plan may provide for levels of recreation use higher than the levels in existence on the date of enactment of this Act if such uses are consistent with the protection of the resource values of Scenic Recreation Area.

(D) The management plan may include public trail access through section 28, township 8 south, range 5 east, Willamette Meridian, to Battle Axe Creek, Opal Pool and other areas in the Opal Creek Wilderness and the Opal Creek Scenic Recreation Area.

(11) PARTICIPATION.—So that the knowledge, expertise, and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Scenic Recreation Area and its various subareas for the benefit of the public:

(A) ADVISORY COUNCIL.—The Secretary shall consult on a periodic and regular basis with the advisory council established under subsection (e) with respect to matters relating to management of the Scenic Recreation Area.

(B) PUBLIC PARTICIPATION.—The Secretary shall seek the views of private groups, individuals, and the public concerning the Scenic Recreation Area.

(C) OTHER AGENCIES.—The Secretary shall seek the views and assistance of, and cooperate with, any other Federal, State, or local agency with any responsibility for the zoning, planning, or natural resources of the Scenic Recreation Area.

(D) NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall seek the views of any nonprofit agency or organization that may contribute information or expertise about the resources and the management of the Scenic Recreation Area.

(e) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—not later than 90 days after the establishment of the scenic recreation area, the secretary shall establish an advisory council for the scenic recreation area.

(2) MEMBERSHIP.—the advisory council shall consist of not more than 13 members, of whom—

(A) 1 member shall represent Marion County, Oregon, and shall be designated by the governing body of the county;

(B) 1 member shall represent the State of Oregon and shall be designated by the Governor of Oregon; and

(C) 1 member shall represent the City of Salem, and shall be designated by the mayor of Salem, Oregon;

(D) 1 member from a city within a 25 mile radius of the Opal Creek Scenic Recreation Area, to be designated by the Governor of the State of Oregon from a list of candidates provided by the mayors of the cities located within a 25 mile radius of the Opal Creek Scenic Recreation Area; and

(E) not more than 9 members shall be appointed by the Secretary from among persons who, individually or through association with a national or local organization, have an interest in the administration of the Scenic Recreation Area, including, but not limited to, representatives of the timber industry, environmental organizations, the mining industry, inholders in the Opal Creek Wilderness and Scenic Recreation Area, economic development interests and Indian tribes.

(3) STAGGERED TERMS.—Members of the advisory council shall serve for staggered terms of 3 years.

(4) CHAIRMAN.—The Secretary shall designate 1 member of the advisory council as chairman.

(5) VACANCIES.—The Secretary shall fill a vacancy on the advisory council in the same manner as the original appointment.

(6) COMPENSATION.—Members of the advisory council shall receive no compensation for their service on the advisory council.

(f) GENERAL PROVISIONS.—

(1) LAND ACQUISITION.—

(A) IN GENERAL.—Subject to the other provisions of this section, the Secretary may acquire any lands or interests in land in the Scenic Recreation Area or the Opal Creek Wilderness that the Secretary determines are needed to carry out this section.

(B) PUBLIC LAND.—Any lands or interests in land owned by a State or a political subdivision of a State may be acquired only by donation or exchange.

(C) CONDEMNATION.—Within the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area, the Secretary may not acquire any privately owned land or interest in land without the consent of the owner unless the Secretary finds that—

(i) the nature of land use has changed significantly, or the landowner has demonstrated intent to change the land use significantly, from the use that existed on the date of the enactment of this Act; and

(ii) acquisition by the Secretary of the land or interest in land is essential to ensure use of the land or interest in land in accordance with the purposes of this title or the management plan prepared under subsection (d)(2).

(D) Nothing in this section shall be construed to enhance or diminish the condemnation authority available to the Secretary outside the boundaries of the Opal Creek Wilderness or the Scenic Recreation Area.

(2) ENVIRONMENTAL RESPONSE ACTIONS AND COST RECOVERY.—

(A) RESPONSE ACTIONS.—Nothing in this section shall limit the authority of the Secretary or a responsible party to conduct an environmental response action in the Scenic Recreation Area in

connection with the release, threatened release, or cleanup of a hazardous substance, pollutant, or contaminant, including a response action conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) LIABILITY.—Nothing in this section shall limit the authority of the Secretary or a responsible party to recover costs related to the release, threatened release, or cleanup of any hazardous substance or pollutant or contaminant in the Scenic Recreation Area.

(3) MAPS AND DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a boundary description for the Opal Creek Wilderness and for the Scenic Recreation Area with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(B) FORCE AND EFFECT.—The boundary description and map shall have the same force and effect as if the description and map were included in this section, except that the Secretary may correct clerical and typographical errors in the boundary description and map.

(C) AVAILABILITY.—The map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(4) SAVINGS PROVISION.—Nothing in this section shall interfere with any activity for which a special use permit has been issued, has not been revoked, and has not expired, before the date of enactment of this Act, subject to the terms of the permit.

(g) ROSBORO LAND EXCHANGE.—

(1) AUTHORIZATION.—Notwithstanding any other law, if the Rosboro Lumber Company (referred to in this subsection as "Rosboro") offers and conveys marketable title to the United States to the land described in paragraph (2), the Secretary of Agriculture shall convey all right, title and interest held by the United States to sufficient lands described in paragraph (3) to Rosboro, in the order in which they appear in this subsection, as necessary to satisfy the equal value requirements of paragraph (4).

(2) LAND TO BE OFFERED BY ROSBORO.—The land referred to in paragraph (1) as the land to be offered by Rosboro shall comprise Section 36, Township 8 South, Range 4 East, Willamette Meridian.

(3) LAND TO BE CONVEYED BY THE UNITED STATES.—The land referred to in paragraph (1) as the land to be conveyed by the United States shall comprise sufficient land from the following prioritized list to be of equal value under paragraph (4):

(A) Section 5, Township 17 South, Range 4 East, Lot 7 (37.63 acres);

(B) Section 2, Township 17 South, Range 4 East, Lot 3 (29.28 acres);

(C) Section 13, Township 17 South, Range 4 East, S½ SE¼ (80 acres);

(D) Section 2, Township 17 South, Range 4 East, SW¼ SW¼ (40 acres);

(E) Section 2, Township 17 South, Range 4 East, NW¼ SE¼ (40 acres);

(F) Section 8, Township 17 South, Range 4 East, SE¼ SW¼ (40 acres);

(G) Section 11, Township 17 South, Range 4 East, W½ NW¼ (80 acres);

(4) EQUAL VALUE.—The land and interests in land exchanged under this subsection shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. The appraisal shall consider access costs for the parcels involved.

(5) TIMETABLE.—

(A) The exchange directed by this subsection shall be consummated not later than 120 days after the date Rosboro offers and conveys the property described in paragraph (2) to the United States.

(B) The authority provided by this subsection shall lapse if Rosboro fails to offer the land described in paragraph (2) within 2 years after the date of enactment of this Act.

(6) CHALLENGE.—Rosboro shall have the right to challenge in United States District Court for the District of Oregon a determination of marketability under paragraph (1) and a determination of value for the lands described in paragraphs (2) and (3) by the Secretary of Agriculture. The court shall have the authority to order the Secretary to complete the transaction contemplated in this subsection.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(h) DESIGNATION OF ELKHORN CREEK AS A WILD AND SCENIC RIVER.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following:

"( )(A) ELKHORN CREEK.—The 6.4-mile segment traversing federally administered lands from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, in the following classes:

"(i) a 5.8-mile wild river area, extending from that point along the Willamette National Forest boundary on the common section line between Sections 12 and 13, Township 9 South, Range 4 East, Willamette Meridian, to its confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered as agreed on by the Secretaries of Agriculture and the Interior, or as directed by the President; and

"(ii) a 0.6-mile scenic river area, extending from the confluence with Buck Creek in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to that point where the segment leaves Federal ownership along the Bureau of Land Management boundary in Section 1, Township 9 South, Range 3 East, Willamette Meridian, to be administered by the Secretary of Interior, or as directed by the President.

"(B) Notwithstanding section 3(b) of this Act, the lateral boundaries of both the wild river area and the scenic river area along Elkhorn Creek shall include an average of not more than 640 acres per mile measured from the ordinary high water mark on both sides of the river.".

(i) ECONOMIC DEVELOPMENT.—

(1) ECONOMIC DEVELOPMENT PLAN.—As a condition for receiving funding under paragraph (2), the State of Oregon, in consultation with Marion County, Oregon, and the Secretary of Agriculture, shall develop a plan for economic development projects for which grants under this subsection may be used in a manner consistent with this section and to benefit local communities in the vicinity of the Opal Creek area. Such plan shall be based on an economic opportunity study and other appropriate information.

(2) FUNDS PROVIDED TO THE STATES FOR GRANTS.—Upon completion of the Opal Creek Management Plan, and receipt of the plan referred to in paragraph (1), the Secretary shall provide, subject to appropriations, $15,000,000 to the State of Oregon. Such funds shall be used to make grants or loans for economic development projects that further the purposes of this section and benefit the local communities in the vicinity of the Opal Creek area.

(3) REPORT.—The State of Oregon shall—

(A) prepare and provide the Secretary and Congress with an annual report on the use of the funds made available under this subsection;

(B) make available to the Secretary and to Congress, upon request, all accounts, financial records, and other information related to grants and loans made available pursuant to this subsection; and

(C) as loans are repaid, make additional grants and loans with the money made available for obligation by such repayments.

SEC. 1026. UPPER KLAMATH BASIN ECOLOGICAL RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM RESTORATION OFFICE.—The term "Ecosystem Restoration Office" means the Klamath Basin Ecosystem Restoration Office operated cooperatively by the United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, and Forest Service.

(2) WORKING GROUP.—The term "Working Group" means the Upper Klamath Basin Working Group, established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) 3 tribal members;

(B) 1 representative of the city of Klamath Falls, Oregon;

(C) 1 representative of Klamath County, Oregon;

(D) 1 representative of institutions of higher education in the Upper Klamath Basin;

(E) 4 representatives of the environmental community, including at least one such representative from the State of California with interests in the Klamath Basin National Wildlife Refuge Complex;

(F) 4 representatives of local businesses and industries, including at least one representative of the forest products industry and one representative of the ocean commercial fishing industry and/or the recreational fishing industry based in either Oregon or California;

(G) 4 representatives of the ranching and farming community, including representatives of Federal lease-land farmers and ranchers and of private land farmers and ranchers in the Upper Klamath Basin;

(H) 2 representatives from State of Oregon agencies with authority and responsibility in the Klamath River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department;

(I) 4 representatives from the local community; and

(J) One representative each from the following Federal resource management agencies in the Upper Klamath Basin: Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Natural Resources Conservation Service, National Marine Fisheries Service and Ecosystem Restoration Office.

(K) One representative of the Klamath County Soil and Water Conservation District.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TASK FORCE.—The term "Task Force" means the Klamath River Basin Fisheries Task Force as established by the Klamath River Basin Fishery Resource Restoration Act (P.L. 99–552, 16 U.S.C. 460ss–3, et.seq.).

(5) COMPACT COMMISSION.—The term "Compact Commission" means the Klamath River Basin Compact Commission created pursuant to the Klamath River Compact Act of 1954.

(6) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group

members present and consisting of at least a quorum at a regularly scheduled business meeting.

(7) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(8) TRINITY TASK FORCE.—The term "Trinity Task Force" means the Trinity River Restoration Task Force created by Public Law 98–541, as amended by Public Law 104–143.

(b) IN GENERAL.—

(1) The Working Group through the Ecosystem Restoration Office, with technical assistance from the Secretary, will propose ecological restoration projects, economic development and stability projects, and projects designed to reduce the impacts of drought conditions to be undertaken in the Upper Klamath Basin based on a consensus of the Working Group membership.

(2) The Secretary shall pay, to the greatest extent feasible, up to 50 percent of the cost of performing any project approved by the Secretary or his designee, up to a total amount of $1,000,000 during each of fiscal years 1997 through 2001.

(3) Funds made available under this title through the Department of the Interior or the Department of Agriculture shall be distributed through the Ecosystem Restoration Office.

(4) The Ecosystem Restoration Office may utilize not more than 15 percent of all Federal funds administered under this section for administrative costs relating to the implementation of this section.

(5) All funding recommendations developed by the Working Group shall be based on a consensus of Working Group members.

(c) COORDINATION.—(1) The Secretary shall formulate a cooperative agreement among the Working Group, the Task Force, the Trinity Task Force and the Compact Commission for the purposes of ensuring that projects proposed and funded through the Working Group are consistent with other basin-wide fish and wildlife restoration and conservation plans, including but not limited to plans developed by the Task Force and the Compact Commission;

(2) To the greatest extent practicable, the Working Group shall provide notice to, and accept input from, two members each of the Task Force, the Trinity Task Force, and the Compact Commission, so appointed by those entities, for the express purpose of facilitating better communication and coordination regarding additional basin-wide fish and wildlife and ecosystem restoration and planning efforts.The roles and relationships of the entities involved shall be clarified in the cooperative agreement.

(d) PUBLIC MEETINGS.—The Working Group shall conduct all meetings subject to Federal open meeting and public participation laws.The chartering requirements of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby deemed to have been met by this section.

(e) TERMS AND VACANCIES.— Working Group members shall serve for three-year terms, beginning on the date of enactment of this title. Vacancies which occur for any reason after the date of enactment of this title shall be filled by direct appointment of the governor of the State of Oregon, in consultation with the Secretary of the Interior and the Secretary of Agriculture, in accordance with nominations from the appropriate groups, interests, and government agencies outlined in subsection (a)(2).

(f) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Klamath Basin. Nothing in this section affects any legal right, duty or authority of any person or agency, including any member of the working group.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 1997 through 2002.

SEC. 1027. DESCHUTES BASIN ECOSYSTEM RESTORATION PROJECTS.

(a) DEFINITIONS.—In this section:

(1) WORKING GROUP.—The term "Working Group" means the Deschutes River Basin Working Group established before the date of enactment of this title, consisting of members nominated by their represented groups, including—

(A) 5 representatives of private interests including one each from hydroelectric production, livestock grazing, timber, land development, and recreation/tourism;

(B) 4 representatives of private interests including two each from irrigated agriculture and the environmental community;

(C) 2 representatives from the Confederated Tribes of the Warm Springs Reservation of Oregon;

(D) 2 representatives from Federal agencies with authority and responsibility in the Deschutes River Basin, including one from the Department of the Interior and one from the Agriculture Department;

(E) 2 representatives from the State of Oregon agencies with authority and responsibility in the Deschutes River Basin, including one from the Oregon Department of Fish and Wildlife and one from the Oregon Water Resources Department; and

(F) 4 representatives from county or city governments within the Deschutes River Basin county and/or city governments.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) FEDERAL AGENCIES.—The term "Federal agencies" means agencies and departments of the United States, including, but not limited to, the Bureau of Reclamation, Bureau of Indian Affairs, Bureau of Land Management, Fish and Wildlife Service, Forest Service, Natural Resources Conservation Service, Farm Services Agency, the National Marine Fisheries Service, and the Bonneville Power Administration.

(4) CONSENSUS.—The term "consensus" means a unanimous agreement by the Working Group members present and constituting at least a quorum at a regularly scheduled business meeting.

(5) QUORUM.—The term "quorum" means one more than half of those qualified Working Group members appointed and eligible to serve.

(b) IN GENERAL.—

(1) The Working Group will propose ecological restoration projects on both Federal and non-Federal lands and waters to be undertaken in the Deschutes River Basin based on a consensus of the Working Group, provided that such projects, when involving Federal land or funds, shall be proposed to the Bureau of Reclamation in the Department of the Interior and any other Federal agency with affected land or funds.

(2) The Working Group will accept donations, grants or other funds and place such funds received into a trust fund, to be expended on ecological restoration projects which, when involving Federal land or funds, are approved by the affected Federal agency.

(3) The Bureau of Reclamation shall pay from funds authorized under subsection (h) of this title up to 50 percent of the cost of performing any project proposed by the Working Group and approved by the Secretary, up to a total amount of $1,000,000 during each of the fiscal years 1997 through 2001.

(4) Non-Federal contributions to project costs for purposes of computing the Federal matching share under paragraph (3) of this subsection may include in-kind contributions.

(5) Funds authorized in subsection (h) of this section shall be maintained in and distributed by the Bureau of Reclamation in the Department of the Interior. The Bureau of Reclamation shall not expend more than 5 percent of amounts appropriated pursuant to subsection (h) for Federal administration of such appropriations pursuant to this section.

(6) The Bureau of Reclamation is authorized to provide by grant to the Working Group not more than 5 percent of funds appropriated pursuant to subsection (h) of this title for not more than 50 percent of administrative costs relating to the implementation of this section.

(7) The Federal agencies with authority and responsibility in the Deschutes River Basin shall provide technical assistance to the Working Group and shall designate representatives to serve as members of the Working Group.

(8) All funding recommendations developed by the Working Group shall be based on a consensus of the Working Group members.

(c) PUBLIC NOTICE AND PARTICIPATION.—The Working Group shall conduct all meetings subject to applicable open meeting and public participation laws. The activities of the Working Group and the Federal agencies pursuant to the provisions of this title are exempt from the provisions of 5 U.S.C. App. 2 1–15.

(d) PRIORITIES.—The Working Group shall give priority to voluntary market-based economic incentives for ecosystem restoration including, but not limited to, water leases and purchases; land leases and purchases; tradable discharge permits; and acquisition of timber, grazing, and land development rights to implement plans, programs, measures, and projects.

(e) TERMS AND VACANCIES.—Members of the Working Group representing governmental agencies or entities shall be named by the represented government. Members of the Working Group representing private interests shall be named in accordance with the articles of incorporation and bylaws of the Working Group.Representatives from Federal agencies will serve for terms of 3 years.Vacancies which occur for any reason after the date of enactment of this title shall be filled in accordance with this title.

(f) ADDITIONAL PROJECTS.—Where existing authority and appropriations permit, Federal agencies may contribute to the implementation of projects recommended by the Working Group and approved by the Secretary.

(g) RIGHTS, DUTIES AND AUTHORITIES UNAFFECTED.—The Working Group will supplement, rather than replace, existing efforts to manage the natural resources of the Deschutes Basin. Nothing in this title affects any legal right, duty or authority of any person or agency, including any member of the working group.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 1997 through 2001.

SEC. 1028. MOUNT HOOD CORRIDOR LAND EXCHANGE.

(a) AUTHORIZATION.—Notwithstanding any other law, if Longview Fibre Company (referred to in this section as "Longview") offers and conveys title that is acceptable to the United States to some or all of the land described in subsection (b), the Secretary of the Interior (referred to in this section as the "Secretary") shall convey to Longview title to some or all of the land described in subsection (c), as necessary to satisfy the requirements of subsection (d).

(b) LAND TO BE OFFERED BY LONGVIEW.—The land referred to in subsection (a) as the land to be offered by Longview are those lands depicted on the map entitled "Mt. Hood Corridor Land Exchange Map", dated July 18, 1996.

(c) LAND TO BE CONVEYED BY THE SECRETARY.—The land referred to in subsection (a) as the land to be conveyed by the Secretary are those lands depicted on the map entitled "Mt. Hood Corridor Land Exchange Map", dated July 18, 1996.

(d) EQUAL VALUE.—The land and interests in land exchanged under this section shall be of equal market value as determined by nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, or shall be equalized by way of payment of cash pursuant to the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(e) REDESIGNATION OF LAND TO MAINTAIN REVENUE FLOW.—So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary may redesignate public domain land located in and west of Range 9 East, Willamette Meridian, Oregon, as land subject to that Act.

(f) TIMETABLE.—The exchange directed by this section shall be consummated not later than 1 year after the date of enactment of this title.

(g) WITHDRAWAL OF LANDS.—All lands managed by the Department of the Interior, Bureau of Land Management, located in Townships 2 and 3 South, Ranges 6 and 7 East, Willamette Meridian, which can be seen from the right-of-way of U.S. Highway 26, (in this section, such lands are referred to as the "Mt. Hood Corridor Lands"), shall be managed primarily for the protection or enhancement of scenic qualities. Management prescriptions for other resource values associated with these lands shall be planned and conducted for purposes other than timber harvest, so as not to impair the scenic qualities of the area.

(h) TIMBER CUTTING.—Timber harvest may be conducted on Mt. Hood Corridor Lands following a resource-damaging catastrophic event. Such cutting may only be conducted to achieve the following resource management objectives, in compliance with the current land use plans—

(1) to maintain safe conditions for the visiting public;

(2) to control the continued spread of forest fire;

(3) for activities related to administration of the Mt. Hood Corridor Lands; or

(4) for removal of hazard trees along trails and roadways.

(i) ROAD CLOSURE.—The forest road gate located on Forest Service Road 2503, located in T. 2 S., R. 6 E., sec. 14, shall remain closed and locked to protect resources and prevent illegal dumping and vandalism. Access to this road shall be limited to—

(1) Federal and State officers and employees acting in an official capacity;

(2) employees and contractors conducting authorized activities associated with the telecommunication sites located in T. 2 S., R. 6 E., sec. 14; and

(3) the general public for recreational purposes, except that all motorized vehicles will be prohibited.

(j) NEPA EXEMPTION.—Notwithstanding any other provision of law, the National Environmental Policy Act of 1969 (Public Law 91–190) shall not apply to this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1029. CREATION OF THE COQUILLE FOREST.

The Coquille Restoration Act (Public Law 101–42) is amended by inserting at the end of section 5 the following:

"(d) Creation of the Coquille Forest.

"(1) DEFINITIONS.—In this subsection:

"(A) The term 'Coquille Forest' means certain lands in Coos County, Oregon, comprising approximately 5,400 acres, as generally depicted on the map entitled 'Coquille Forest Proposal', dated July 8, 1996.

"(B) The term 'Secretary' means the Secretary of Interior.

"(C) The term 'the Tribe' means the Coquille Tribe of Coos County, Oregon.

"(2) MAP.—The map described in paragraph (1)(A), and such additional legal descriptions which are applicable, shall be placed on file at the local District Office of the Bureau of Land Management, the Agency Office of the Bureau of Indian Affairs, and with the Senate Committee on Energy and Natural Resources and the House Committee on Resources.

"(3) INTERIM PERIOD.—From the date of enactment of this subsection until two years after the date of enactment of this subsection, the Bureau of Land Management shall—

"(A) retain Federal jurisdiction for the management of lands designated under this subsection as the Coquille Forest and continue to distribute revenues from such lands in a manner consistent with existing law; and

"(B) prior to advertising, offering or awarding any timber sale contract on lands designated under this subsection as the Coquille Forest, obtain the approval of the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with the Tribe.

"(4) TRANSITION PLANNING AND DESIGNATION.—

"(A) During the two-year interim period provided for in paragraph (3), the Assistant Secretary for Indian Affairs, acting on behalf of and in consultation with Tribe, is authorized to initiate development of a forest management plan for the Coquille Forest. The Secretary, acting through the director of the Bureau of Land Management, shall cooperate and assist in the development of such plan and in the transition of forestry management operations for the Coquille Forest to the Assistant Secretary for Indian Affairs.

"(B) Two years after the date of enactment of this subsection, the Secretary shall take the lands identified under subparagraph (d)(1)(A) into trust, and shall hold such lands in trust, in perpetuity, for the Coquille Tribe.Such lands shall be thereafter designated as the Coquille Forest.

"(5) MANAGEMENT.—The Secretary of Interior, acting through the Assistant Secretary for Indian Affairs shall manage the Coquille Forest under applicable forestry laws and in a manner consistent with the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands. The Secretary shall otherwise manage the Coquille Forest in accordance with the laws pertaining to the management of Indian Trust lands and shall, except as provied in subparagraph (C), distribute revenues in accordance with PL 101–630, 25 U.S.C. 3107.

"(A) Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign Nations that apply to unprocessed logs harvested from Federal lands.

"(B) Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.

"(C) So as to maintain the current flow of revenue from land subject to the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land situated in the State of Oregon" (the O & C Act), approved August 28, 1937 (43 U.S.C. 1181a et seq.), the Secretary shall redesignate, from public domain lands within the Tribe's service area, as defined in this Act, certain lands to be subject to the O & C Act. Lands redesignated under this subparagraph shall not exceed lands sufficient to constitute equivalent timber value as compared to lands constituting the Coquille Forest.

"(6) INDIAN SELF-DETERMINATION ACT AGREEMENT.—No sooner than 2 years after the date of enactment of this subsection, the Secretary may, upon a satisfactory showing of management competence and pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.), enter into a binding Indian self-determination agreement (agreement) with the Coquille Indian Tribe. Such agreement may provide for the Tribe to carry out all or a portion of the forest management for the Coquille Forest.

"(A) Prior to entering such an agreement, and as a condition of maintaining such an agreement, the Secretary must find that the Coquille Tribe has entered into a binding memorandum of agreement (MOA) with the State of Oregon, as required under paragraph (7), and with the 18 Oregon counties as required by paragraph (8).

"(B) The authority of the Secretary to rescind the Indian self-determination agreement shall not be encumbered.

"(i) The Secretary shall rescind the agreement upon a demonstration that the Tribe and the State of Oregon or the 18 Oregon counties are no longer engaged in a memorandum of agreement as required under paragraph (7).

"(ii) The Secretary may rescind the agreement on a showing that the Tribe has managed the Coquille Forest in a manner inconsistent with this subsection, or the Tribe is no longer managing, or capable of managing, the Coquille Forest in a manner consistent with this subsection.

"(7) MEMORANDUM OF AGREEMENT WITH OREGON.—The Coquille Tribe shall enter into a memorandum of agreement (MOA) with the State of Oregon relating to the establishment and management of the Coquille Forest. The MOA shall include, but not be limited to, the terms and conditions for managing the Coquille Forest in a manner consistent with paragraph (5) of this subsection, preserving public access, advancing jointly-held resource management goals, achieving tribal restoration objectives and establishing a coordinated management framework. Further, provisions set forth in the MOA shall be consistent with Federal trust responsibility requirements applicable to Indian trust lands and paragraph (5) of this subsection.

"(8) PUBLIC ACCESS.—The Coquille Forest shall remain open to public access for purposes of hunting, fishing, recreation and transportation, except when closure is required by state or Federal law, or when the Coquille Indian Tribe and the State of Oregon agree in writing that restrictions on access are necessary or appropriate to prevent harm to natural resources, cultural resources or environmental quality: Provided, That the State of Oregon's agreement shall not be required when immediate action is necessary to protect archaeological resources.

"(9) JURISDICTION.—

"(A) The United States District Court for the District of Oregon shall have jurisdiction over actions against the Secretary arising out of claims that this subsection has been violated. Consistent with existing precedents on standing to sue, any affected citizen may bring suit against the Secretary for violations of this subsection, except that suit may not be brought against the Secretary for claims that the MOA has been violated. The court has the authority to hold unlawful and set aside actions pursuant to this subsection that are arbitrary and capricious, an abuse of discretion, or otherwise an abuse of law.

"(B) The United States District Court for the District of Oregon shall have jurisdiction over actions between the State of Oregon, or the 18 Oregon counties, and the tribe arising out of claims of breach of the MOA.

"(C) Unless otherwise provided for by law, remedies available under this subsection shall be limited to equitable relief and shall not include damages.

"(10) STATE REGULATORY AND CIVIL JURISDICTION.—In addition to the jurisdiction described in paragraph (7) of this subsection, the State of Oregon may exercise exclusive regulatory civil jurisdiction, including but not limited to adoption and enforcement of administrative rules and orders, over the following subjects:

"(A) Management, allocation and administration of fish and wildlife resources, including but not limited to establishment and enforcement of hunting and fishing seasons, bag limits, limits on equipment and methods, issuance of permits and licenses, and approval or disapproval of hatcheries, game farms, and other breeding facilities: Provided, That nothing herein shall be construed to permit the State of Oregon to manage fish or wildlife habitat on Coquille Forest lands.

"(B) Allocation and administration of water rights, appropriation of water and use of water.

"(C) Regulation of boating activities, including equipment and registration requirements, and protection of the public's right to use the waterways for purposes of boating or other navigation.

"(D) Fills and removals from waters of the State, as defined in Oregon law.

"(E) Protection and management of the State s proprietary interests in the beds and banks of navigable waterways.

"(F) Regulation of mining, mine reclamation activities, and exploration and drilling for oil and gas deposits.

"(G) Regulation of water quality, air quality (including smoke management), solid and hazardous waste, and remediation of releases of hazardous substances.

"(H) Regulation of the use of herbicides and pesticides.

"(I) Enforcement of public health and safety standards, including standards for the protection of workers, well construction and codes governing the construction of bridges, buildings, and other structures.

"(J) Other subject where State authority is provided for except that, in the event of a conflict between Federal and State law under this subsection, Federal law shall control.

"(11) SAVINGS CLAUSE; STATE AUTHORITY.—

"(A) Nothing in this subsection shall be construed to grant Tribal authority over private or State-owned lands.

"(B) To the extent that the State of Oregon is regulating the foregoing areas pursuant to a delegated Federal authority or a Federal program, nothing in this subsection shall be construed to enlarge or diminish the State's authority under such law.

"(C) Where both the State of Oregon and the United States are regulating, nothing herein shall be construed to alter their respective authorities.

"(D) To the extent that Federal law authorizes the Coquille Indian Tribe to assume regulatory authority over an area, nothing herein shall be construed to enlarge or diminish the Tribe's authority to do so under such law.

"(E) Unless and except to the extent that the Tribe has assumed jurisdiction over the Coquille Forest pursuant to Federal law, or otherwise with the consent of the State, the State of Oregon shall have jurisdiction and authority to enforce its laws addressing the subjects listed in paragraph (10) of this subsection on the Coquille Forest against the Coquille Indian Tribe, its members and all other persons and entities, in the same manner and with the same remedies and protections and appeal rights as otherwise provided by general Oregon law. Where the State of Oregon and Coquille Indian Tribe agree regarding the exercise of tribal civil regulatory jurisdiction over activities on the Coquille Forest lands, the tribe may exercise such jurisdiction as is agreed upon.

"(12) In the event of a conflict between Federal and State law under this subsection, Federal law shall control.".

SEC. 1030. BULL RUN PROTECTION.

(a) AMENDMENTS TO PUBLIC LAW 95–200.—

(1) The first sentence of section 2(a) of Public Law 95–200 is amended after "referred to in this subsection (a)" by striking "2(b)" and inserting in lieu thereof "2(c)".

(2) The first sentence of section 2(b) of Public Law 95–200 is amended after "the policy set forth in subsection (a)" by inserting "and (b)".

(3) Subsection (b) of section 2 of Public Law 95–200 is redesignated as subsection (c).

(4) Section 2 of Public Law 95–200 is amended by inserting after subsection (a) the following new subsection:

"(b) TIMBER CUTTING.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall prohibit the cutting of trees in that part of the unit consisting of the hydrographic boundary of the Bull Run River Drainage, including certain lands within the unit and located below the headworks of the city of Portland, Oregon's water storage and delivery project, and as depicted in a map dated July 22, 1996 and entitled 'Bull Run River Drainage'.

"(2) PERMITTED CUTTING.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of Agriculture shall prohibit the cutting of trees in the area described in subparagraph (1).

"(B) PERMITTED CUTTING.—Subject to subparagraph (C), the Secretary may only allow the cutting of trees in the area described in subparagraph (1)—

"(i) for the protection or enhancement of water quality in the area described in subparagraph (1); or

"(ii) for the protection, enhancement, or maintenance of water quantity available from the area described in subparagraph (1); or

"(iii) for the construction, expansion, protection or maintenance of municipal water supply facilities; or

"(iv) for the construction, expansion, protection or maintenance of facilities for the transmission of energy through and over the unit or previously authorized hydroelectric facilities or hydroelectric projects associated with municipal water supply facilities.

"(C) SALVAGE SALES.—The Secretary of Agriculture may not authorize a salvage sale in the area described in subparagraph (1).".

[(5) Redesignate subsequent subsections of Public Law 95–200 accordingly.]

(b) REPORT TO CONGRESS.—The Secretary of Agriculture shall, in consultation with the city of Portland and other affected parties, undertake a study of that part of the Little Sandy Watershed that is within the unit (hereinafter referred to as the "study area"). The study shall determine—

(1) the impact of management activities within the study area on the quality of drinking water provided to the Portland Metropolitan area;

(2) the identity and location of certain ecological features within the study area, including late successional forest characteristics, aquatic and terrestrial wildlife habitat, significant hydrological values, or other outstanding natural features; and

(3) the location and extent of any significant cultural or other values within the study area.

(c) RECOMMENDATIONS.—The study referred to in subsection (b) shall include both legislative and regulatory recommendations to Congress on the future management of the study area. In formulating such recommendations, the Secretary shall consult with the city of Portland and other affected parties.

(d) EXISTING DATA AND PROCESSES.—To the greatest extent possible, the Secretary shall use existing data and processes to carry out the study and report.

(e) SUBMISSION TO CONGRESS.—The study referred to in subsection (b) shall be submitted to the Senate Committees on Energy and Natural Resources and Agriculture and the House Committees on Resources and Agriculture not later than one year from the date of enactment of this section.

(f) MORATORIUM.—The Secretary is prohibited from advertising, offering or awarding any timber sale within the study area for a period of two years after the date of enactment of this section.

(g) WATER RIGHTS.—Nothing in this section shall in any way affect any State or Federal law governing appropriation, use of or Federal right to water on or flowing through National Forest System lands.Nothing in this section is intended to influence the relative strength of competing claims to the waters of the Little Sandy River.Nothing in this section shall be construed to expand or diminish Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control, including rights in and current uses of water resources in the unit.

(h) OTHER LANDS IN UNIT.—Lands within the Bull Run Management Unit, as defined in Public Law 95–200, but not contained within the Bull Run River Drainage, as defined by this section and as depicted on the map dated July 1996 described in section 604 of this title, shall continue to be managed in accordance with Public Law 95–200.

SEC. 1031. OREGON ISLANDS WILDERNESS, ADDITIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, certain lands within the boundaries of the Oregon Islands National Wildlife Refuge, Oregon, comprising approximately 95 acres and as generally depicted on a map entitled "Oregon Island Wilderness Additions—Proposed" dated August 1996, are hereby designated as wilderness. The map shall be on file and available for public inspection in the offices of the Fish and Wildlife Service, Department of Interior.

(b) OTHER AREAS WITHIN REFUGE BOUNDARIES.—All other federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, not currently designated as wilderness and also within the Oregon Islands National Wildlife Refuge boundaries under the administration of the U.S. Fish and Wildlife Service, Department of Interior, as designated by Executive Order 7035, Proclamation 2416, Public Land Orders 4395, 4475 and 6287, and Pubic Laws 91–504 and 95–450, are hereby designated as wilderness.

(c) AREAS UNDER BLM JURISDICTION.—All federally owned named, unnamed, surveyed and unsurveyed rocks, reefs, islets and islands lying within three geographic miles off the coast of Oregon and above mean high tide, and presently under the jurisdiction of the Bureau of Land Management, except Chiefs Island, are hereby designated as wilderness, shall become part of the Oregon Islands National Wildlife Refuge and the Oregon Islands Wilderness and shall be under the jurisdiction of the United States Fish and Wildlife Service, Department of the Interior.

(d) MAP AND DESCRIPTION.—As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Senate Committee on Energy and Natural Resources and the House Committee on Resources, and such map shall

have the same force and effect as if included in this section: Provided, however, That correcting clerical and typographical errors in the map and land descriptions may be made.

(e) ORDER 6287.—Public Land Order 6287 of June 16, 1982, which withdrew certain rocks, reefs, islets, and islands lying within three geographical miles off the coast of Oregon and above mean high tide, including the 95 acres described in subsection (a), as an addition to the Oregon Islands National Wildlife Refuge is hereby made permanent.

SEC. 1032. UMPQUA RIVER LAND EXCHANGE STUDY: POLICY AND DIRECTION.

(a) IN GENERAL.—The Secretaries of the Interior and Agriculture (Secretaries) are hereby authorized and directed to consult, coordinate and cooperate with the Umpqua Land Exchange Project (ULEP), affected units and agencies of State and local government, and, as appropriate, the World Forestry Center and National Fish and Wildlife Foundation, to assist ULEP's ongoing efforts in studying and analyzing land exchange opportunities in the Umpqua River basin and to provide scientific, technical, research, mapping and other assistance and information to such entities. Such consultation, coordination and cooperation shall at a minimum include, but not be limited to—

(1) working with ULEP to develop or assemble comprehensive scientific and other information (including comprehensive and integrated mapping) concerning the Umpqua River basin's resources of forest, plants, wildlife, fisheries (anadromous and other), recreational opportunities, wetlands, riparian habitat and other physical or natural resources;

(2) working with ULEP to identify general or specific areas within the basin where land exchanges could promote consolidation of forestland ownership for long-term, sustained timber production; protection and restoration of habitat for plants, fish and wildlife (including any federally listed threatened or endangered species); protection of drinking water supplies; recovery of threatened and endangered species; protection and restoration of wetlands, riparian lands and other environmentally sensitive areas; consolidation of land ownership for improved public access and a broad array of recreational uses; and consolidation of land ownership to achieve management efficiency and reduced costs of administration; and

(3) developing a joint report for submission to the Congress which discusses land exchange opportunities in the basin and outlines either a specific land exchange proposal or proposals which may merit consideration by the Secretaries or the Congress, or ideas and recommendations for new authorizations, direction, or changes in existing law or policy to expedite and facilitate the consummation of beneficial land exchanges in the basin via administrative means.

(b) MATTERS FOR SPECIFIC STUDY.—In analyzing land exchange opportunities with ULEP, the Secretaries shall give priority to assisting ULEP's ongoing efforts in:

(1) studying, identifying, and mapping areas where the consolidation of land ownership via land exchanges could promote the goals of long term species and watershed protection and utilization, including but not limited to the goals of the Endangered Species Act of 1973 more effectively than current land ownership patterns and whether any changes in law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(2) studying, identifying and mapping areas where land exchanges might be utilized to better satisfy the goals of sustainable timber harvest, including studying whether changes in existing law or policy applicable to such lands after consummation of an exchange would be advisable or necessary to achieve such goals;

(3) identifying issues and studying options and alternatives, including possible changes in existing law or policy, to insure that combined post-exchange revenues to units of local government from state and local property, severance and other taxes or levies and shared Federal land receipts will approximate pre-exchange revenues;

(4) identifying issues and studying whether possible changes in law, special appraisal instruction, or changes in certain Federal appraisal procedures might be advisable or necessary to facilitate the appraisal of potential exchange lands which may have special characteristics or restrictions affecting land values;

(5) identifying issues and studying options and alternatives, including changes in existing laws or policy, for achieving land exchanges without reducing the net supply of timber available to small business;

(6) identifying, mapping, and recommending potential changes in land use plans, land classifications, or other actions which might be advisable or necessary to expedite, facilitate or consummate land exchanges in certain areas;

(7) analyzing potential sources for new or enhanced Federal, State, or other funding to promote improved resource protection, species recovery, and management in the basin; and

(8) identifying and analyzing whether increased efficiency and better land and resource management could occur through either consolidation of Federal forest management under one agency or exchange of lands between the Forest Service and Bureau of Land Management.

(c) REPORT TO CONGRESS.—No later than February 1, 1998, ULEP and the Secretaries shall submit a joint report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning their studies, findings, recommendations, mapping and other activities conducted pursuant to this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In furtherance of the purposes of this section, there is hereby authorized to be appropriated the sum of $2,000,000, to remain available until expended.

SEC. 1033. BOSTON HARBOR ISLANDS RECREATION AREA.

(a) PURPOSES.—The purposes of this section are—

(1) to preserve for public use and enjoyment the lands and waters that comprise the Boston Harbor Islands National Recreation Area;

(2) to manage the recreation area in partnership with the private sector, the Commonwealth of Massachusetts, municipalities surrounding Massachusetts and Cape Cod Bays, the Thompson Island Outward Bound Education Center, and Trustees of Reservations, and with historical, business, cultural, civic, recreational and tourism organizations;

(3) to improve access to the Boston Harbor Islands through the use of public water transportation; and

(4) to provide education and visitor information programs to increase public understanding of and appreciation for the natural and cultural resources of the Boston Harbor Islands, including the history of Native American use and involvement.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term recreation area means the Boston Harbor Islands National Recreation Area established by subsection (c); and

(2) the term "Secretary" means the Secretary of the Interior.

(c) BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.—

(1) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national recreation area certain lands located in Massachusetts Bay, there is established as a unit of the National Park System the Boston Harbor Islands National Recreation Area.

(2) BOUNDARIES.—(A) The recreation area shall be comprised of the lands, waters, and submerged lands generally depicted on the map entitled "Proposed Boston Harbor Islands NRA", numbered BOHA 80002, and dated September 1996. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. Alter advising the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(B) The recreation area shall include the following:

(i) The areas depicted on the map referenced in subparagraph (A).

(ii) Landside points required for access, visitor services, and administration in the city of Boston along its Harborwalk and at Long Wharf, Fan Pier, John F. Kennedy Library, and the Custom House; Charlestown Navy Yard; Old Northern Avenue Bridge; the city of Quincy at Squantum Point/Marina Bay, the Fore River Shipyard, and Town River; the Town of Hingham at Hewitt's Cove; the Town of Hull; the city of Salem at Salem National Historic Site; and the city of Lynn at the Heritage State Park.

(d) ADMINISTRATION OF RECREATION AREA.—

(1) IN GENERAL.—The recreation area shall be administered in partnership by the Secretary, the Commonwealth of Massachusetts, City of Boston and its applicable subdivisions and others in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467) as amended and supplemented and in accordance with the integrated management plan specified in subsection (f).

(2) STATE AND LOCAL JURISDICTION.—Nothing in this section shall be construed to diminish, enlarge, or modify any right of the Commonwealth of Massachusetts or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State laws, rules, and regulations within the recreation area, including those relating to fish and wildlife, or to tax persons, corporations, franchises, or private property on the lands and waters included in the recreation area.

(3) COOPERATIVE AGREEMENTS.—The Secretary may consult and enter into cooperative agreements with the Commonwealth of Massachusetts or its political subdivisions to acquire from and provide to the Commonwealth or its political subdivisions goods and services to be used in the cooperative management of lands within the recreation area, if the Secretary determines that appropriations for that purpose are available and the agreement is in the best interest of the United States.

(4) CONSTRUCTION OF FACILITIES ON NON-FEDERAL LANDS.—In order to facilitate the administration of the recreation area, the Secretary is authorized, subject to the appropriation of necessary funds in advance, to construct essential administrative or visitor use facilities on non-Federal public lands within the recreation area. Such facilities and the use thereof shall be in conformance with applicable plans.

(5) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept and use donated funds, property, and services to carry out this section.

(6) RELATIONSHIP OF RECREATION AREA TO BOSTON-LOGAN INTERNATIONAL AIRPORT.—With respect to the recreation area, the present and future maintenance, operation, improvement and use of Boston-Logan International Airport and associated flight patterns from time to time in effect shall not be deemed to constitute the use of publicly owned land of a public park, recreation area, or other resource within the meaning of section 303(c) of title 49, United States Code, and shall not be deemed to have a significant effect on natural, scenic, and recreation assets within the meaning of section 47101(h)(2) of title 49, United States Code.

(7) MANAGEMENT IN ACCORDANCE WITH INTEGRATED MANAGEMENT PLAN.—The Secretary shall preserve, interpret, manage, and provide educational and recreational uses for the recreation area, in consultation with the owners and managers of lands in the recreation area, in accordance with the integrated management plan.

(e) BOSTON HARBOR ISLANDS PARTNERSHIP ESTABLISHMENT.—

(1) ESTABLISHMENT.—There is hereby established the Boston Harbor Islands Partnership whose purpose shall be to coordinate the activities of Federal, State, and local authorities and the private sector in the development and implementation of an integrated resource management plan for the recreation area.

(2) MEMBERSHIP.—The Partnership shall be composed of 13 members, as follows:

(A) One individual appointed by the Secretary, to represent the National Park Service.

(B) One individual, appointed by the Secretary of Transportation, to represent the United States Coast Guard.

(C) Two individuals, appointed by the Secretary, after consideration of recommendations by the Governor of Massachusetts, to represent the Department of Environmental Management and the Metropolitan District Commission.

(D) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Port Authority.

(E) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Massachusetts Water Resources Authority.

(F) One individual, appointed by the Secretary, after consideration of recommendations by the Mayor of Boston, to represent the Office of Environmental Services of the city of Boston.

(G) One individual, appointed by the Secretary, after consideration of recommendations by the Chair, to represent the Boston Redevelopment Authority.

(H) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Thompson Island Outward Bound Education Center, to represent the Center.

(I) One individual, appointed by the Secretary, after consideration of recommendations of the Chair, to represent the Trustees of Reservations.

(J) One individual, appointed by the Secretary, after consideration of recommendations of the President of the Island Alliance, to represent the Alliance, a non-profit organization whose sole purpose is to provide financial support for the Boston Harbor Islands National Recreation Area.

(K) Two individuals, appointed by the Secretary, to represent the Boston Harbor Islands Advisory Council, established in subsection (g).

(3) TERMS OF OFFICE; REAPPOINTMENT.—(A) Members of the Partnership shall serve for terms of three years. Any member may be reappointed for one additional 3-year term.

(B) The Secretary shall appoint the first members of the Partnership within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b)(3), (4), (5), (6), (7), (8), (9), and (10).

(C) A member may serve after the expiration of his or her term until a successor has been appointed.

(4) COMPENSATION.—Members of the Partnership shall serve without pay, but while away from their homes or regular places of business in the performance of services for the Partnership, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(5) ELECTION OF OFFICERS.—The Partnership shall elect one of its members as Chairperson and one as Vice Chairperson. The term of office of the Chairperson and Vice Chairperson shall be one year. The Vice Chairperson shall serve as chairperson in the absence of the Chairperson.

(6) VACANCY.—Any vacancy on the Partnership shall be filled in the same manner in which the original appointment was made.

(7) MEETINGS.—The Partnership shall meet at the call of the Chairperson or a majority of its members.

(8) QUORUM.—A majority of the Partnership shall constitute a quorum.

(9) STAFF OF THE PARTNERSHIP.—The Secretary shall provide the Partnership with such staff and technical assistance as the Secretary, after consultation with the Partnership, considers appropriate to enable the Partnership to carry out its duties. The Secretary may accept the services of personnel detailed from the Commonwealth of Massachusetts, any political subdivision of the Commonwealth or any entity represented on the Partnership.

(10) HEARINGS.—The Partnership may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Partnership may deem appropriate.

(11) DONATIONS.—Notwithstanding any other provision of law, the Partnership may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out this section.

(12) USE OF FUNDS TO OBTAIN MONEY.—The Partnership may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(13) MAILS.—The Partnership may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(14) OBTAINING PROPERTY.—The Partnership may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties, except that the Partnership may not acquire any real property or Interest in real property.

(15) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan described in subsection (f), the Partnership may enter into cooperative agreements with the Commonwealth of Massachusetts, any political subdivision thereof, or with any organization or person.

(f) INTEGRATED RESOURCE MANAGEMENT PLAN.—

(1) IN GENERAL.—Within three years after the date of enactment of this Act, the Partnership shall submit to the Secretary a management plan for the recreation area to be developed and implemented by the Partnership.

(2) CONTENTS OF PLAN.—The plan shall include (but not be limited to) each of the following:

(A) A program providing for coordinated administration of the recreation area with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, and local levels, and non-profit organizations, including each of the following:

(i) A plan to finance and support the public improvements and services recommended in the plan, including allocation of non-Federal matching requirements set forth in subsection (h)(2) and a delineation of private sector roles and responsibilities.

(ii) A program for the coordination and consolidation, to the extent feasible, of activities that may be carried out by Federal, State, and local agencies having jurisdiction over land and waters within the recreation area, including planning and regulatory responsibilities.

(B) Policies and programs for the following purposes:

(i) Enhancing public outdoor recreational opportunities in the recreation area.

(ii) Conserving, protecting and maintaining the scenic, historical, cultural, natural and scientific values of the islands.

(iii) Developing educational opportunities in the recreation area.

(iv) Enhancing public access to the Is lands, including development of transportation networks.

(v) Identifying potential sources of revenue from programs or activities carried out within the recreation area.

(vi) Protecting and preserving Native American burial grounds connected with the King Philip's War internment period and other periods.

(C) A policy statement that recognizes existing economic activities within the recreation area.

(3) DEVELOPMENT OF PLAN.—In developing the plan, the Partnership shall—

(A) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the recreation area;

(B) consult with interested conservation, business, professional, and citizen organizations; and

(C) conduct public hearings or meetings for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(4) APPROVAL OF PLAN.—(A) The Partnership shall submit the plan to the Governor of Massachusetts for review. The Governor shall have 90 days to review and make any recommendations. After considering the Governor's recommendations, the Partnership shall submit the plan to the Secretary, who shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(i) The adequacy of public participation.

(ii) Assurances of plan implementation from State and local officials.

(iii) The adequacy of regulatory and financial tools that are in place to implement the plan.

(B) If the Secretary disapproves the plan, the Secretary shall within 60 days after the date of such disapproval, advise the Partnership in writing of the reasons therefore, together with recommendations for revision. Within 90 days of receipt of such notice of disapproval, the Partnership shall revise and resubmit the plan to the Secretary who shall approve or disapprove the revision within 60 days.

(5) INTERIM PROGRAM.—Prior to adoption of the Partnership's plan, the Secretary and the Partnership shall assist the owners and managers of lands and waters within the recreation area to ensure that existing programs, services, and activities that promote the purposes of this section are supported.

(g) BOSTON HARBOR ISLANDS ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Park Service, shall establish an advisory committee to be known as the Boston Harbor Islands Advisory Council. The purpose of the Advisory Council shall be to represent various groups with interests in the recreation area and make recommendations to the Boston Harbor Islands Partnership on issues related to the development and implementation of the integrated resource management plan developed under subsection (f). The Advisory Council is encouraged to establish committees relating to specific recreation area management issues, including (but not limited to) education, tourism, transportation, natural resources, cultural and historic resources, and revenue raising activities. Participation on any such committee shall not be limited to members of the Advisory Council.

(2) MEMBERSHIP.—The Advisory Council shall consist of not fewer than 15 individuals, to be appointed by the Secretary, acting through the Director of the National Park Service. The Secretary shall appoint no fewer than three individuals to represent each of the following categories of entities: municipalities; educational and cultural institutions; environmental organizations; business and commercial entities, including those related to transportation, tourism and the maritime industry; and Boston Harbor-related advocacy organizations; and organizations representing Native American interests.

(3) PROCEDURES.—Each meeting of the Advisory Council and its committees shall be open to the public.

(4) FACA.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), are hereby waived with respect to the Advisory Council.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this section, provided that no funds may be appropriated for land acquisition.

(2) MATCHING REQUIREMENT.—Amounts appropriated in any fiscal year to carry out this section may only be expended on a matching basis in a ration of at least three non-Federal dollars to every Federal dollar. The non-Federal share of the match may be in the form of cash, services, or in-kind contributions, fairly valued.

SEC. 1034. NATCHEZ NATIONAL HISTORICAL PARK.

Section 3 of the Act of October 8, 1988, entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo et seq.), is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 3."; and

(2) by adding at the end the following:

"(b) BUILDING FOR JOINT USE BY THE SECRETARY AND THE CITY OF NATCHEZ.—

"(1) CONTRIBUTION TOWARD CONSTRUCTION.—The Secretary shall enter into an agreement with the city of Natchez under which the Secretary agrees to pay not to exceed $3,000,000 toward the planning and construction by the city of Natchez of a structure to be partially used by the Secretary as an administrative headquarters, administrative site, and visitors' center for Natchez National Historical Park.

"(2) USE FOR SATISFACTION OF MATCHING REQUIREMENTS.—The amount of payment under paragraph (1) may be available for matching Federal grants authorized under other law notwithstanding any limitations in any such law.

"(3) AGREEMENT.—Prior to the execution of an agreement under paragraph (1), and subject to the appropriation of necessary funds in advance, the Secretary shall enter into a contract, lease, cooperative agreement, or other appropriate form of agreement with the city of Natchez providing for the use and occupancy of a portion of the structure constructed under paragraph (1) (including appropriate use of the land on which it is situated), at no cost to the Secretary (except maintenance, utility, and other operational costs), for a period of 50 years, with an option for renewal by the Secretary for an additional 50 years.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 to carry out this subsection.".

SEC. 1035. SUBSTITUTION OF TIMBER FOR CANCELED TIMBER SALE.

(a) IN GENERAL.—Notwithstanding the provisions of the Act of July 31, 1947 (30 U.S.C. 601 et seq.), and the requirements of section 5402.0–6 of title 43, Code of Federal Regulations, the Secretary of the Interior, acting through the Bureau of Land Management, is authorized to substitute, without competition, a contract for timber identified for harvest located on public lands administered by the Bureau of Land Management in the State of California of comparable value for the following terminated timber contract: Elkhorn Ridge Timber Sale, Contract No. CA–050–TS–88–01.

(b) DISCLAIMER.—Nothing in this section shall be construed as changing any law or policy of the Federal Government beyond the timber sale substitution specified in this section.

SEC. 1036. RURAL ELECTRIC AND TELEPHONE FACILITIES.

(a) IN GENERAL.—Section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)) is amended by striking "financed pursuant to the Rural Electrification Act of 1936, as amended," in the last sentence and inserting "eligible for financing pursuant to the Rural Electrification Act of 1936, as amended, determined without regard to any application requirement under that Act,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act.

SEC. 1037. FEDERAL BOROUGH RECOGNITION.

(a) Section 6901(2) of title 31, United States Code, is amended to read as follows:

"(2)(A) 'unit of general local government' means—

"(i) a county (or parish), township, borough, or city where the city is independent of any other unit of general local government, that—

"(I) is within the class or classes of such political subdivision in a State that the Secretary of the Interior, in his discretion, determines to be the principal provider or providers of governmental services within the State; and

"(II) is a unit of general government, as determined by the Secretary of the Interior on the basis of the same principles as were used by the Secretary of Commerce on January 1, 1983, for general statistical purposes;

"(ii) any area in Alaska that is within the boundaries of a census area used by the Secretary of Commerce in the decennial census, but that is not included within the boundary of a governmental entity described under clause (i);

"(iii) the District of Columbia;

"(iv) the Commonwealth of Puerto Rico;

"(v) Guam; and

"(vi) the Virgin Islands.

"(B) the term 'governmental services' includes, but is not limited to, those services that relate to public safety, the environment, housing, social services, transportation, and governmental administration.".

(b) PAYMENT IN LIEU OF TAXES.—Section 6902(a) of title 31, United States Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

"(2) For each unit of general local government described in section 6901(2)(A)(ii), the Secretary of the Interior shall make a payment for each fiscal year to the State of Alaska for entitlement land located within such unit as set forth in this chapter. The State of Alaska shall distribute such payment to home rule cities and general law cities (as such cities are defined by the State) located within the boundaries of the unit of general local government for which the payment was received. Such cities may use monies received under this paragraph for any governmental purpose.".

SEC. 1038. ALTERNATIVE PROCESSING.

The Secretary of Agriculture shall not terminate or otherwise interfere with the purchaser's operations under Forest Service Timber Contract A10fs-1042 for failure to operate a pulp mill and such failure shall not prejudice any other contract dispute currently under appeal or in litigation.

SEC. 1039. VILLAGE LAND NEGOTIATION.

(a) NEGOTIATIONS.—The Secretary of the Interior shall negotiate with the Alaska Native Village Corporations of Tyonek Native Corporation, Ninilchik Native Association Inc., Knikatnu Inc., Seldovia Native Association Inc., Chikaloon Moose Creek Native Association, Inc. and the Alaska Native Regional Corporation, Cook Inlet Region, Inc. (CIRI) for the purpose of finalizing conveyance to the affected village corporation of the high priority lands or, in the case of CIRI, subsurface estate underlying lands described in "Appendix C" of the Deficiency Agreement dated August 31, 1976, pursuant to Public Law 94–456 or such alternative lands or other consideration as the village corporation, CIRI and the Secretary may agree upon.

(b) REPORT TO COMMITTEES.—The Secretary shall report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives by March 1, 1997, the result of those negotiations.

(c) STATUTE OF LIMITATIONS.—

(1) If the Secretary is unable to reach an agreement with the affected corporation on conveyance of the lands described in paragraph (1) or alternative consideration by March 1, 1997, the affected corporation or corporations may commence litigation at any time within 12 months of enactment of this Act in Federal District Court for Alaska to challenge any determination by the Department of the Interior that the Native Corporations will not receive conveyance of lands described in "Appendix C" of the Deficiency Agreement.

(2) If such litigation is commenced, trial de novo to the Federal District Court for Alaska shall be held and the Deficiency Agreement shall be construed as an agreement for the benefit of Alaska Natives as Native Americans consistent with the Federal trust responsibilities.

SEC. 1040. UNRECOGNIZED COMMUNITIES IN SOUTHEAST ALASKA.

(a) ESTABLISHMENT OF ADDITIONAL NATIVE CORPORATIONS IN SOUTHEAST ALASKA.—(1) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)), hereinafter in this section referred to as the "Act") is amended by adding at the end the following new paragraph:

"(12)(A) The Native residents of each of the Native Villages of Haines, Ketchikan, Petersburg and Wrangell, Alaska, may organize as an Urban Corporation.

"(B) The Native residents of the Native Village of Tenakee, Alaska, may organize as a Group Corporation.

"(C) Nothing in this paragraph shall affect existing entitlement to land of any Native Corporation pursuant to this Act or any other provision of law.".

(2) Notwithstanding any other provision of the Act, nothing in this section shall create any

entitlement to Federal lands for an urban or group corporation organized pursuant to paragraph (1) without further Act of Congress.

(b) DISTRIBUTION RIGHTS.—Section 7 of the Alaska Native Claims Settlement Act is amended by adding at the end of subsection (j) the following new sentence: "Native members of the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell who are shareholders of Sealaska Corporation and who become shareholders in an Urban or Group Corporation for such a community shall continue to be eligible to receive distributions under this subsection as at-large shareholders of Sealaska Corporation.".

(c) PLANNING GRANTS.—The Native Corporation for the communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell are authorized to receive grants in the amount of $250,000 to each such corporation, to be used only for planning, development, and other purposes for which Native Corporations are organized under this section.

(d) CONSIDERATION OF RECOMMENDATIONS.—(1) In developing the Tongass Land Management Plan, the Secretary of Agriculture shall, after consultation with the Southeast Alaska Landless Coalition, Sealaska Corporation, the Urban Corporations for the Native communities of Haines, Ketchikan, Petersburg, and Wrangell, and the Group Corporation for the Native Community of Tenakee (hereinafter collectively referred to as "Southeast Native Corporations"), take into account the establishment of additional Native Corporations under section 14(h)(12) of the Act, as amended by this section.

(2) In meeting the requirements set forth in paragraph (1), the Secretary shall fully consider and analyze all recommendations by the Southeast Native Corporations.

(3) Within 9 months following the enactment of this section, the Secretary shall submit a report to Congress setting forth an analysis of the impact that establishment of the Native Corporations under section 14(h)(12) of the Act, as amended by this section, will have on the Tongass Land Management Plan.

(4) The Tongass Land Management Plan shall incorporate all appropriate recommendations from the Southeast Native Corporations.

(e) MISCELLANEOUS PROVISION.—No provision of this section shall affect the ratio for determination of distribution of revenues among the Regional Corporations under section 7(i) of the Act and the 1982 section 7(i) Settlement Agreement among the Regional Corporations or among Village Corporations under section 7(j) of the Act.

SEC. 1041. CONVEYANCE TO GROSS BROTHERS.

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) survey certain real property located in Tongass National Forest and described in subsection (b); and

(2) convey all right, title, and interest of the United States, subject to valid existing rights, in and to the property, to Danial J. Gross, Sr., and Douglas K. Gross of Wrangell Alaska.

(b) DESCRIPTION.—The real property referred to in subsection (a)—

(1) consists of approximately 160.8 acres;

(2) is located at Green Point on the Stikine River in Alaska; and

(3) has the legal description T61S R84E S31, NE1/4, NW1/4 and NW1/4, NE1/4, Copper River Meridian.

SEC. 1042. REGULATION OF FISHING IN CERTAIN WATERS OF ALASKA.

(a) IN GENERAL.—Local residents who are descendants of Katmai residents who lived in the Naknek Lake and River Drainage shall be permitted, subject to reasonable regulations established by the Secretary of the Interior, to continue their traditional fishery for red fish within Katmai National Park (the national park and national preserve redesignated, established, and expanded under section 202(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 410hh-1)).

(b) RED FISH DEFINED.—For the purposes of subsection (a), the term "red fish" means spawned-out sockeye salmon that has no significant commercial value.

(c) TITLE.—No provision of this section shall be construed to invalidate or validate or in any other way affect any claim by the State of Alaska to title to any or all submerged lands, nor shall any actions taken pursuant to or in accordance with this Act operate under any provision or principle of the law to bar the State of Alaska from asserting at any time its claim of title to any or all of the submerged lands.

(d) JURISDICTION.—Nothing in this section nor in any actions taken pursuant to this section shall be construed as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in management, regulation, or control over waters of the State of Alaska or submerged lands under any provision of Federal or State law.

SEC. 1043. CREDIT FOR RECONVEYANCE.

Within 24 months after the date of the enactment of this Act, the Cape Fox Corporation may transfer all or part of its right, title, and interest in and to the approximately 320-acre parcel that includes Beaver Falls Hydroelectric powerhouse site to the United States. In exchange for the transfer, the acreage entitlement of the Cape Fox Corporation shall be credited in the amount of the number of acres returned to the United States under this section.

SEC. 1044. RADIO SITE REPORT.

The Secretary of Agriculture (1) shall have a period of 180 days from the date of enactment of this Act to review management of Inspiration Point, San Bernadino National Forest, make a determination whether the continued presence of the KATY-FM antenna on the site is in the public interest, and report the determination with the reasons therefor to the Committee on Energy and Natural Resources, United States Senate, and the Committee on Resources, House of Representatives, and (2) shall take no action within such period which causes or results in, directly or indirectly, the removal of the antenna from the site.

SEC. 1045. MANAGEMENT OF EXISTING DAMS AND WEIRS.

With respect to the Emigrant Wilderness in the Stanislaus National Forest, California, as designated by section 2(b) of Public Law 93-632 (88 Stat. 2154; 16 U.S.C. 1132 note), the Secretary of Agriculture shall retain and maintain the 18 concrete dams and weirs that were located within the boundaries of the Emigrant Wilderness on the date of the enactment of such Public Law, January 3, 1975. If personnel of the Forest Service are unavailable to perform the maintenance of the dams and weirs, or to supplement the maintenance activities of Forest Service personnel, the Secretary shall contract with other persons to perform the maintenance at Government expense or permit other persons to perform the maintenance at private expense.

SEC. 1046. UNIVERSITY OF ALASKA LAND NEGOTIATION.

(a) Subject to valid existing rights and the conditions set forth in this legislation, the Secretary of the Interior is authorized to convey to the University of Alaska, as a grant and in fee simple, a basic Federal entitlement of 350,000 acres of Federal lands in Alaska.

(b) The University of Alaska may submit to the Secretary a list of properties the university has selected to receive under the conditions of this grant. The university may submit selections that exceed the basic entitlement, except that such selections shall not exceed 385,000 acres.

(c) The Secretary shall not approve or convey, under this grant—

(1) any Federal lands which, at the time of enactment of this Act, are included in a Conservation System Unit as defined in the Alaska National Interests Lands Conservation Act or a National Forest.

(2) any Federal lands validly selected but not conveyed to the State of Alaska or the corporations organized pursuant to the Alaska Native Claims Settlement Act.

(d) Lands shall be conveyed to the university only to the extent that the State of Alaska conveys, or has conveyed an equivalent amount of acreage to the university subsequent to enactment of this Act.

TITLE XI—CALIFORNIA BAY DELTA ENVIRONMENTAL ENHANCEMENT

SEC. 1101. PROGRAM FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1998, 1999, and 2000, there are authorized to be appropriated an additional $143,300,000 for both—

(1) the initial Federal share of the cost of developing and implementing that portion of an ecosystem protection plan for the Bay-Delta, referred to as "the Category III program" emanating out of the document entitled "Principles for Agreement on Bay-Delta Standards Between the State of California and the Federal Government", dated December 15, 1994, and

(2) the initial Federal share of the cost of developing and implementing the ecosystem restoration elements of the long-term CALFED Bay-Delta Program, pursuant to the cost sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996.

Funds appropriated pursuant to this section shall remain available until expended and shall be administered in accordance with procedures established by CALFED Bay-Delta Program until Congress authorizes another entity that is recommended by CALFED Bay-Delta Program to carry out this section.

(b) TREATMENT OF FUNDS.—Funds authorized to be appropriated pursuant to this section to those agencies that are currently or subsequently become participants in the CALFED Bay-Delta Program shall be in addition to the baseline funding levels established pursuant to subsection (e), for currently authorized projects and programs under the Central Valley Project Improvement Act (title XXXIV of of Public Law 102-575) and other currently authorized Federal programs for the purpose of Bay-Delta ecosystem protection and restoration.

(c) LONG-TERM SOLUTION.—Nothing in this section shall be deemed to diminish the Federal interest in and responsibility for working with the State of California through the CALFED Bay-Delta Program in developing, funding, and implementing a balanced, long-term solution to the problems of ecosystem quality, water quality, water supply and reliability, and system vulnerability affecting the San Francisco Bay/Sacramento-San Joaquin Delta Watershed in California. Participation in such long term solution shall only be undertaken pursuant to authorization provided by law other than this section, and shall be based on the equitable allocation of program costs among beneficiary groups that the CALFED Bay-Delta programs shall develop.

(d) ACTIVITIES.—To the extent not otherwise authorized, those agencies and departments that are currently or subsequently become participants in the CALFED Bay-Delta Program are hereby authorized to undertake the activities and programs for which Federal cost sharing is provided by this section. The United States shall immediately initiate coordinated consultations and negotiations with the State of California to

expeditiously execute the cost-sharing agreement required by section 78684.10 of California Senate Bill 900, Chapter 135, Statutes of 1996, signed by the Governor of California on July 11, 1996. Such activities shall include, but not be limited to, planning, design, technical assistance, and construction for ecosystem restoration programs and projects.

(e) BUDGET CROSSCUT.—The Office of Management and Budget is directed to submit to the House and Senate Committees on Appropriations, as part of the President's Fiscal Year 1998 Budget, an interagency budget crosscut that displays Federal spending for fiscal years 1993 through 1998 on ecosystem restoration and other purposes in the Bay-Delta region, separately showing funding provided previously or requested under both pre-existing authorities and new authorities granted by this section.

(f) EFFECTIVE DATE.—Subsections (a) through (d) of this section shall take effect on the date of passage of California State Proposition 204.

And the Senate agree to the same.

DON YOUNG,
JAMES V. HANSEN,
WAYNE ALLARD,
J.D. HAYWORTH,
BARBARA CUBIN,
Managers on the Part of the House.

FRANK H. MURKOWSKI,
PETE V. DOMENICI,
DON NICKLES,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1296), to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment.

TITLE I: PRESIDIO OF SAN FRANCISCO

Title I is very similar to H.R. 1296 passed by the House and described in House Report 104–202. The Managers have made a number of relatively small refinements to the language as passed.

Perhaps most importantly, the Managers have clarified that all lands within the Presidio will remain within the boundary of Golden Gate National Recreation Area, even after formation of the Presidio Trust. This location within a unit of the National Park System is expected to have a strong influence on the future management of the area.

The Managers have made adjustments to the language regarding the transition of the Presidio from management by the National Park Service to management by the Presidio Trust. Those adjustments include clarification of how previously appropriated funds would be handled, how current employees of the National Park Service would be dealt with, and the manner in which the National Park Service would continue to oversee certain ongoing activities, particularly construction projects. In addition, the Managers have provided guidance with respect to the transfer of personal property. The Managers are aware that the National Park Service inherited a substantial amount of personal property from the Army when they departed. In fact, there was so much personal property transferred that some of the equipment has already been transferred to other park units in the Bay area. The Managers have therefore specified that personal property received by the National Park Service should be transferred to the Trust for their ongoing management of the property, rather than remain with the National Park Service.

The Managers have provided for the U.S. Park Police to provide for continued law enforcement presence at the Presidio. Currently, the National Park Service has both park rangers and park police performing such services; and the Managers concur with the position of the Senate that the park police are best suited to carry out this function.

The Managers have agreed to provide reasonable flexibility to the Trust in terms of compliance with Federal procurement laws. The flexibility provided to the Trust in this legislation is consistent with overall efforts by both the Administration and the Congress to reduce the administrative burden of procurement laws.

Finally, the Managers have agreed to extend the timeframe for providing federal funding to the Trust from 12 to 15 years. While analysis conducted by the Trust indicates that it is feasible to eliminate the need for Federal funds in 12 years, extending such authority for 15 years provides a greater level of assurance of success for the Trust. In recognition of the overall level of funding which will still be required to implement this legislation, as well as in the interest of charting the progress of this relatively unique partnership, the Managers have agreed to a strong commitment on behalf of the General Accounting Office to provide oversight and feedback to the Congress.

TITLE II: BOUNDARY ADJUSTMENTS AND CONVEYANCES

SECTION 201

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 202

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 203

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 204

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 205

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 206

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 207

For an explanation of the text see House Report 104–59 (H.R. 694).

SECTION 208

For an explanation of the text see House Report 104–60 (H.R. 562).

SECTION 209

For an explanation of the text see House Report 104–9 (H.R. 440).

SECTION 210

For an explanation of the text see House Report 104–7 (H.R. 101).

SECTION 211

The Managers agreed to modify the language pertaining to the expansion of Colonial National Historical Park as passed by the House in H.R. 1091 by deleting the limitation on land acquisition. The acquisition methods agreed to by Managers are typical of park expansion legislation.

SECTION 212

For an explanation of the text see Senate Report 104–189 (S. 1196).

SECTION 213

For an explanation of the text see House Report 104–711 (H.R. 3579).

SECTION 214

The language is self-explanatory.

SECTION 215

For an explanation of the text see House Report 104–307 (H.R. 1585).

SECTION 216

For an explanation of the text see House Report 104–308 (H.R. 1585).

SECTION 217

For an explanation of the text see House Report 104–176 (H.R. 1091).

SECTION 218

The Managers agreed to certain changes in language pertaining to the establishment of Shenandoah National Park as contained in the House-passed version of H.R. 1091. While the boundary of the park is established to consist of lands in Federal ownership as of the date of enactment of the provision, the Secretary is provided additional flexibility in making future minor boundary adjustments at the park. The original House version of H.R. 1091 permitted future minor boundary adjustments only where essential to facilitate trailhead access. The Managers agreed to permit minor boundary adjustments where the Secretary determines it would further the purposes of the park. H.R. 1091 as passed by the House limited the methods for future boundary adjustments to donation only, while the Managers agreed to permit such adjustments by donation, exchange or acquisition from willing sellers. The Managers also agreed to direct the National Park Service to undertake a comprehensive boundary study, which would guide all future boundary modifications after its completion.

SECTION 219

The purpose of this provision is to validate certain conveyances made by the Southern Pacific Transportation Company within the city of Tulare, California.

From 1862 through 1871, Congress adopted the Pacific Railroad Acts (The Charter Acts) to establish a system of railroads in the western United States. The Charter Acts gave railroads a right-of-way to strips of land 200 feet wide on each side of the railroad tracks where the tracks were laid along routes established in the Charter Acts.

The right-of-way for the railroad tracks and a strip 200 feet wide on either side within the Downtown Redevelopment Area of the City of Tulare (Railroad Right-of-Way) was granted to the Central Pacific Railroad Company of California and the Southern Pacific Railroad Company under the Charter Acts in 1862.

Currently, the Railroad Rights-of-Way through Tulare are an active and essential part of the railroad corridor. There is only a remote possibility that the railroad tracks through downtown Tulare will ever be abandoned; however, that possibility means title to eight parcels of land is somewhat clouded and could be impaired or lost. Congressional action is the only relief to clear title to the eight parcels.

The Managers have agreed to correct the problem by validating and confirming title to the eight parcels in accordance with 43 U.S.C. 912. On seven previous occasions, Congress has validated similar conveyances under the same authority.

SECTION 220

For an explanation of the text see House Report 104–759 (H.R. 3547).

SECTION 221

For an explanation of the text see House Report 104–760 (H.R. 3147).

SECTION 222

The language is self-explanatory.

SECTION 223

For an explanation of the text see House Report 104–452 (H.R. 2100).

SECTION 224

For an explanation of the text see House Report 104–763 (H.R. 2709).

TITLE III: EXCHANGES

SECTION 301

For an explanation of the text see House Report 104–55 (HR 529).

SECTION 302

For an explanation of the text see House Report 104–8 (HR 400).

SECTION 303

For an explanation of the text see Senate Report 104–49 (S. 719).

SECTION 304

For an explanation of the text see House Report 104–409 (HR 2402).

SECTION 305

For an explanation of the text see Senate Report 104–268 (S. 1025).

SECTION 306

For an explanation of the text see House Report 104–371 (HR 826).

SECTION 307

The language is self-explanatory. This section includes a waiver of the Comprehensive Environmental Response, Compensation and Liability Act and the Federal Water Pollution Control Act at the insistence of the Administration.

SECTION 308

For an explanation of the text see House Report 104–310 (HR 207).

SECTION 309

For an explanation of the text see House Report 104–306 (HR 1838).

SECTION 310

For an explanation of the text see House Report 104–658 (HR 3290).

SECTION 311

The City of Greeley, Colorado and the Water Supply and Storage Company operate eight reservoirs in the Roosevelt National Forest in Colorado. This provision would provide the framework for the agreement that has been reached between the United States Forest Service and the City of Greeley and Water Supply and Storage.

The agreement has been negotiated over the last twelve months and would provide for the Forest Service with 708 acres of land to improve the administration of the Roosevelt National Forest. Some of this land is within the boundaries of Federally designated Wilderness Areas.

SECTION 312

The Conference Committee has adopted language which could lead to a major expansion of the Gates of the Arctic National Park and Preserve and to significant additions to the Maritime National Wildlife Refuge and other conservation system units in Alaska. These expansions would be made if mutually agreeable land exchanges are negotiated by the Secretary of the Interior with the Arctic Slope Regional Corporation (ASRC) and the State of Alaska. In return for conveying to the United States title to lands long sought for addition to the Park and other conservation units, ASRC and the State could receive title to lands located within the 23 million acre National Petroleum Reserve-Alaska (NPR–A).

SECTION 313

See House Report 104–756 for background information.

TITLE IV: RIVERS AND TRAILS

SECTION 401

For an explanation of the text see Senate Report 104–188 (S 342). The Managers changed the title to reflect it was not a heritage area and per a request from the Government Reform Committee the Federal Property and Administrative Services Act was waived instead of amended.

SECTION 402

For an explanation of the text see Senate Report 104–37 (S 363).

SECTION 403

For an explanation of the text see Senate Report 104–41 (S 587).

SECTION 404

For an explanation of the text see House Report 104–54 (HR 531).

SECTION 405

For an explanation of the text see Senate Report 104-261 (S 1425).

SECTION 406

For an explanation of the text see House Report 104-716 (HR 2292).

SECTION 407

For an explanation of the text see House Report 104-716 (HR 2292).

SECTION 408

The Managers agreed to add an amendment to the House-passed text of HR 2292 which authorizes the National Park Service to construct a new visitor center at New River Gorge National Recreation Area.

SECTION 409

For an explanation of the text see House Report 104–716 (HR 2292).

SECTION 410

For an explanation of the text see House Report 104–716 (HR 2292).

TITLE V: HISTORIC AREAS AND CIVIL RIGHTS

SECTION 501

For an explanation of the text see House Report 104-567 (HR 1129).

SECTION 502

The language is self-explanatory.

SECTION 503

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 504

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 505

For an explanation of the text see Senate Report 104-49 (S 719).

SECTION 506

The Managers agree that establishment of the memorial to Black Revolutionary War Patriots is an important effort. Further, it is the understanding of the Managers that the fund raising effort for the memorial is now well underway and therefore the Managers have agreed that an additional two year extension of this authority to complete such fundraising efforts is meritorious.

SECTION 507

For an explanation of the text see House Report 104-758 (HR 1179).

SECTION 508

For an explanation of the text see Senate Report 104-190 (S 426).

SECTION 509

The authorization for the Advisory Council on Historic Preservation is scheduled to expire at the end of the current fiscal year. The Managers are aware that under the current Section 106 process for implementation of the National Historic Preservation Act, the Advisory Council plays an important role in assessing and mitigating the impacts of Federal actions on significant historic properties. The Managers are also aware that in the recent past, the Advisory Council has attempted to promulgate regulations which could have led to significant increases in the cost of compliance with the National Historic Preservation Act, and which would have provided little additional benefit in terms of resource protection. While the Advisory Council has subsequently withdrawn those regulations in the face of overwhelming public opposition, the Managers remain concerned about the nature of final regulations to be adopted.

The Managers agreed to a four-year extension of the authorization of the Advisory Council, but within that time frame have directed that the Council provide recommendations for modifying the overly complex historic preservation compliance process. In particular, the Managers are seeking alternative ways to carry out the Historic Preservation Act which will be less burdensome on both the public and private sectors.

The Managers have also agreed on a number of technical amendments which are needed to improve the day-to-day operations of the Advisory Council.

SECTION 510

See Senate Report 104–49 (S. 188) for background information.

SECTION 511

The language is self-explanatory.

SECTION 512

The language is self-explanatory.

SECTION 513

The Conference Committee adopted a Senate provision which designates the Aleutian World War II National Historic Area within lands owned by the Ounalaska Corporation on the island of Amaknak, Alaska and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant circumstances involving the history of the Aleut people, and the role of the Aleut people and the Aleutian Islands in the defense of the United States in World War II.

SECTION 514

For an explanation of the text see House Report 104-368 (HR 2636).

SECTION 515

For an explanation of the text see House Report 104-709 (HR 3006).

SECTION 516

The language is self-explanatory.

TITLE VI: CIVIL AND REVOLUTIONARY WAR SITES

SECTION 601

For an explanation of the text see Senate Report 104-263 (SJ Res 42).

SECTION 602

For an explanation of the text see Senate Report 104-43 (S 610).

SECTION 603

Richmond National Battlefield Park

Subsection a: Findings and purposes

This subsection establishes the findings and purposes. Congress finds that the boundaries of the Richmond National Battlefield Park do not include all of the historically significant areas important to the Civil War campaigns in and around the City of Richmond which served as the capital of the Confederacy.

The purposes of this section are to establish a revised boundary for the park to consist of the lands currently in Federal ownership and to provide for procedures for the National Park Service to expand the boundaries.

Subsection b: Modification of boundary

This subsection designates the boundary of the park to comprise those lands in Federal ownership and administered by the National Park Service before the date of enactment of this legislation.

Subsection c: Land acquisition

This subsection authorizes the Secretary to expand the boundaries of the park to include those lands identified in the general management plan for the park approved in June 1996 and depicted on the National Park Service map dated August 1993. The Secretary may acquire lands for addition to the park by donation, purchase with donated or appropriated funds or exchange with the consent of the land owner. Upon acquisition of any lands by the Secretary, the park boundary is modified to include those lands without further action by Congress.

Subsection d: Park management and administration

This subsection directs the Secretary to interpret for the benefit of the public the significance of the Battles of Richmond on the Civil War and the effects of the Civil War on all American people. To further the interpretation and preservation of the historic resources of the park identified in the general management plan, the Secretary is directed to provide technical assistance and to enter into cooperative agreements with local governments, nonprofit organizations and land owners. The Secretary is also authorized to provide technical assistance to local governments, nonprofit organizations and land owners to protect and preserve historically significant Civil War resources located outside of the boundary of the park.

Subsection e: Administration

This subsection clarifies that Richmond National Battlefield Park is to be managed in accord with the Historic Sites Act of 1935.

SECTION 604

For an explanation of the text see Senate Report 104-310 (S 1226).

SECTION 605

For an explanation of the text see Senate Report 104-310 (S 1226).

SECTION 606

For an explanation of the text see House Report 104-603 (HR 848).

SECTION 607

Title 607. Shenandoah Valley Battlefields National Historic District

Subsection (a.): Short title

This subsection entitles this section as the Shenandoah Valley National Battlefields National Historic District comprising 10 Civil War battlefields in Virginia's Shenandoah Valley.

Subsection (b.): Congressional findings

In 1990, Congress enacted the Civil War Sites Study Act (section 1204 of Public Law 101-628). That law directed the Secretary of the Interior to prepare a study of Civil War sites within the Shenandoah Valley in Virginia. The study was completed in September 1992, and transmitted to Congress in summer of 1993.

The study notes that "the battlefields identified in this study collectively appear to meet criteria for national significance. The study shows that the Shenandoah Valley represents a unique geographic and historic resource: that it possesses tremendous scenic beauty and exceptional potential for interpreting aspects of the Civil War that are currently not represented in the National Park System; . . . and that many portions of the Valley retain a high degree of historic, rural, and scenic integrity."

The study identifies the historical significance of the battles in the Valley associated with Confederate General Thomas J. (Stonewall) Jackson's campaign of 1862 and the decisive Union campaigns of 1864 led by Union General Philip Sheridan.

Subsection (c.): Statement of purposes

Until recently, most of the Shenandoah Valley had remained in the same type of agricultural use since the Civil War. However, increasing development within the Valley has begun to threaten the integrity of many of these battlefield sites. This subsection sets forth the purposes of the Historic District to provide a coordinated strategy for protection involving the National Park Service, the Commonwealth of Virginia, local governments, private organizations and land owners.

Partnerships between all levels of government, private landowners and non-profit organizations will foster the protection of the natural, cultural, and historic resources within the historic district linking the battlefields.

Subsection (d.): Definitions

This subsection defines certain key terms used in this section.

Subsection (e.): Shenandoah Valley Battlefields National Historic District

This subsection establishes the Shenandoah Valley Battlefields National Historic District consisting of lands identified in the Park Service study, the battlefield areas identified on the National Park Service map at Cedar Creek, Cross Keys, Fisher's Hill, McDowell, New Market, Opequon, Port Republic, Second Kernstown, Second Winchester, and Tom's Brook, and the historic transportation routes linking these battlefields.

Subsection (f.): Shenandoah Valley Battlefields National Historic District Plan

This subsection provides that the District is to be managed by the Commission and the management entity pursuant to this Act and the Shenandoah Valley Battlefields Historic District Plan (the "plan"), pursuant to this section.

It also sets forth the specific provisions of the plan, including the development of an inventory of lands that should be acquired, managed or preserved because of its historical significance; provisions for the establishment of a management entity which may be either a unit of government or a private nonprofit organization; identification of partnerships between state, local and regional entities and the private sector; and, provisions for the protection and interpretation of natural, cultural and historic resources in the Historic District.

The purpose of the management entity is to administer the District consistent with the plan. The management entity would have legal ability to receive and disburse Federal funds, enter into agreements with all levels of governments or organizations to provide for the implementation of the plan, and to acquire lands from willing sellers for the purposes of preserving the historic resources in the District.

This subsection directs the Commission to prepare a draft plan within 3 years. The Commission is required to ensure that appropriate notice of the draft plan is provided to local communities.

It also requires that the Secretary review the plan and within 90 days after receiving the plan, either approve it or reject the plan and recommend modifications that would make the plan acceptable.

Subsection (g.): Duties of the Secretary

This subsection authorizes the Secretary to award grants, provide technical assistance and enter into cooperative agreements with local governments, property owners and nonprofit organizations to preserve and interpret the historic resources in the District.

The Secretary may acquire land from a willing seller that has been identified by the Commission as important to the preservation of battlefields within the District.

The Secretary is directed, upon request of the Commission, to detail two employees of the Department of the Interior to the Commission to assist with the preparation of the plan.

Following the approval of the plan, the Secretary is to report to Congress on whether the Historic District or specific components should be added as units of the National Park System.

Subsection (h.): Shenandoah Valley Battlefields National Heritage Corridor Commission

This subsection establishes the Shenandoah Valley National Battlefields Historic District Commission (the "Commission") consisting of 19 members. The Commission is to be composed of local governments, property owners, a member with expertise in historic preservation, a Civil War historian, and the Governor of Virginia and the Director of the National Park Service, in an ex-officio capacity.

Subsection (I.): Duties of the Commission

The duties of the Commission are the development of the plan; assisting in the management, protection and interpretation of the natural, cultural and historical resources within the District; and, taking appropriate action to encourage protection of the resources within the District by landowners, local governments, and other organizations.

Section (j.): Authorization of appropriations

This subsection authorizes the appropriation of $250,000 annually from the amounts available to carry out the National Historic Preservation Act for the establishment and operation of the Commission.

There is authorized to be appropriated to the Secretary $2,000,000 annually from the National Historic Preservation Act to make grants, provide technical assistance and enter into cooperative agreements pursuant to Section 7.

For the purposes of land acquisition within the Historic District, $2,000,000 is authorized to be appropriated from the National Historic Preservation Act pursuant to Section 7(d).

A total of $500,000 annually is authorized to be appropriated from the National Historic Preservation Act for the establishment and operation of the management entity.

TITLE VII: FEES

SECTION 701

For an explanation of the text see House Report 104-516 part I (HR 1527).

SECTION 702

For an explanation of the text see House Report 104-57 (HR 536).

SECTION 703

The Managers agree that many provisions of the existing recreation fee policy, as provided in Section 4 of the Land and Water Conservation Act are outdated and unworkable. The Managers have therefore agreed that current law should be replaced in its entirety. The policy adopted by the Managers is similar to the recreation fee policy contained in HR 2107 as reported by the House Resources Committee. However, the Managers have agreed to include a number of limitations on fee increases, similar to those included in the Balanced Budget Act which was vetoed by the President.

The inclusion of caps in the legislation is probably one of the biggest changes to the fee policy reported by the House Resources Committee. The Managers have agreed to caps of $10 per person or $25 per car for single admission visits, $25 for annual geographic permits and $50 for Golden Eagle Passports. The Managers have also provided that Golden Eagle Passports would be available to persons 62 years of age or older for no more than 50 percent of the rate charged for other persons. In addition, the Managers have agreed that all children 12 and under should be charged no admission fee. The Managers have included language which provides that increases in fees will be implemented over a reasonable period of time in order to minimize rapid escalation of fees charged to recreation users. The Managers do not anticipate that agencies will begin to immediately charge fees as provided for in this legislation at the maximum allowable rate.

The Managers have agreed to limit the scope of this provision to the National Park Service, Bureau of Land Management and Forest Service only, at this time. The Managers recognize that over the long term, it is desirable for the public to have a single recreation fee policy for all Federal lands. However, since other agencies have recreation fee authority conformance is not essential at this time. The Managers expect that other such agencies will undertake no program inconsistent with this provision, unless otherwise specifically provided in law.

The Managers have also simplified the recreation fee program as contained in HR 2107. Specifically, the Managers have agreed to delete target recreation revenue goals, delete appropriation language and simplify the calculation of how much revenue should be retained by each of the collecting areas.

The Managers have included in the text the current fee schedule for admission fees for commercial tour operators. The Managers recognize that in some cases agencies may already be charging rates higher than those specifically included in this text, but does not intend in any way to imply that current fees schedules should be modified. Rather, the Managers intend simply that future increases in such commercial tour entry fees be in accord with the provisions of this section.

The Managers recognize that the four land management agencies were recently authorized under the FY 96 Interior Appropriation Act (Public Law 104-134) to implement recreation fee demonstration programs. Unfortunately, none of the agencies with this authority, except the Forest Service, have elected to implement it. Therefore, in order to develop a consistent policy, this legislation repeals that authority for all agencies except the Forest Service.

SECTION 704

This section provides for the protection of the natural resources of Glacier Bay National Park by the Secretary of the Interior while preserving the authority of other Federal agencies to enforce environmental laws under their authority in the Park. The Secretary of the Interior issues permits and charges fees to concessionaires in the Glacier Bay national park, including cruise ships. The fees collected by the Secretary be used to protect Park resources within the Park. Therefore, this section provides that 60 percent of the fees charged to certain permittees be used by the Secretary to protect park resources, including prepositioned oil spill prevention equipment.

In addition, the Committee on Conference is concerned that recent rulemakings by the Secretary of the Interior regarding permit conditions for park concessionaires appear to overstep the authority of the Secretary and usurp the authority of other Federal agencies, such as the Coast Guard and the Environmental Protection Agency, to enforce the Oil Pollution Act, the Federal Water Pollution Control Act and the Clean Air Act. Accordingly, this provision limits the authority of the Secretary to condition permits, including permits for vessel operations, in the Park.

Finally, the Committee is concerned that the permit conditions being considered by the Secretary be based on substantial, verifiable scientific information. Therefore, this section allows permit fees to be used for further scientific investigations to help the Secretary to develop appropriate and justified permit conditions to protect Glacier Bay National Park resources.

TITLE VIII: MISCELLANEOUS ADMINISTRATIVE AND MANAGEMENT PROVISIONS

SECTION 801

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 802

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 803

For an explanation of the text see House Report 104-59 (HR 694) and Senate Report (104-312)

SECTION 804

For a basic explanation of the text see House Report 104-59 (HR 694). The Managers also agreed to a provision to ensure that the Smithsonian Institute is consulted whenever the National Park Service determines that it has museum collections surplus to its needs.

SECTION 805

The Managers agreed to a ceiling of $3.5 million for expenditures for volunteer purposes.

SECTION 806

The Committee adopted a provision which would allow for core sampling to take place in Katmai National Park for the purposes of volcanological research.

SECTION 807

For an explanation of the text see House Report 104-34 (S. 197).

SECTION 808

For an explanation of the text see House Report 104-59 (HR 694).

SECTION 809

For an explanation of the text see House Report 104-262 (S. 1627).

SECTION 810

For an explanation of the text see House Report 104-10 (H.J. Res. 50).

SECTION 811

For an explanation of the text see Senate Report 104-50 (H.R. 629).

SECTION 812

For an explanation of the text see House Report 104-58 (H.R. 606).

SECTION 813

For an explanation of the text see House Report 104-309 (H.R. 924).

SECTION 814

For an explanation of the text see Senate Report 104-198 (S. 509).

SECTION 815

The Managers agreed to a broad array of administrative reforms for the National Park Service as generally provided by H.R. 2941 (see House Report 104-802, Part I). However, the Managers did agree to make changes to the language from H.R. 2941 pertaining to both housing and construction of administrative facilities outside of the boundaries of park areas.

The most significant change to the housing authority is the elimination of the authority to sell government housing to cooperatives consisting of field employees. While Managers agree that this provision has merit, they also agree that there are potential problems and have therefore agreed to a study of such a program prior to its authorization. The Managers have also agreed to direct the Secretary to refine the concept of required occupancy. The Managers have found evidence that this concept is not applied uniformly and believe that employees who are required to occupy government quarters due to isolation deserve similar treatment regardless of occupation.

The Managers deleted the generic authority for the National Park Service to construct facilities outside of park boundaries on non-federal land and substituted the site-specific authority for such construction at Zion National Park. The Managers are aware of several similar proposals currently receiving congressional consideration. However, the Managers generally believe that park facilities should be located in the park, and that other federal leasing authorities are generally adequate to provide needed building space outside the parks. It is the conclusion of the Managers that the need for facilities outside of park boundaries should continue to be evaluated on a case-by-case basis.

SECTION 816

Section 816 is based on legislation passed by the House Resources Committee (H.R. 3534) which authorizes the National Park Service to continue to issue special use permits to cabin owners at Mineral King in Sequoia National Park, after the death of the permittee of record.

There is no accurate count of persons living within areas designated by Congress as units of the national park system, either on private property or on Federally-owned property. For example, Indiana Dunes National Lakeshore reports that at one point, there were over 700 use and occupancy agreements at that park alone.

Individuals currently reside inside parks under three basic sets of conditions. The first is on private property within the park boundary which has not yet been acquired by the Federal government. The second is when

property has been acquired by the Federal government under terms of a use and occupancy agreement. The third is when the Federal government permits persons to reside on Federal lands.

Since 1972, acquisition of Federal lands has been guided by the Uniform Relocation and Assistance Act. That law generally provides for the government to authorize the lease back of an improved residence which has been acquired, for up to 25 years or the life of the occupant, depending on any limitations contained in the specific authorizing statute. For example, if the Federal government is acquiring the area for road construction purposes, the resident would typically not be offered a lifetime estate. The homeowner pays for this extended use of the property through a reduction in the purchase price paid by the government. These persons have a property right which is reflected as a use and occupancy agreement. Such use of the property can be bought and sold.

In the 1970's, when the Federal government was acquiring extensive lands for park purposes, it has been alleged that some of the acquisition was heavy-handed. It is unclear whether residents were fully advised of their rights, and there were a number of bitter land acquisition disputes across the park system. Congress has addressed this issue at least once before, when an Act was passed which permitted residents of Minute Man National Historic Park to extend their original use and occupancy agreements (PL 102-488).

The history of the National Park Service permitting persons to use park lands for residential purposes is less clear. Typically these situations arise due to prevailing conditions at the time of park establishment. However, there has been a wide discrepancy among parks with regard to how any generic authority is interpreted. Some park superintendents claim they have no authority to permit such non-park residential use of the land, while others have seen no problem with the issuance of special use permits for residential purposes.

Mineral King was Forest Service land added to Sequoia-Kings Canyon National Park in the 1970's in order to prevent Disney from developing a ski area. When the land was added, there were a number of residents within the addition; both persons who owned their property and persons who occupied cabins under a special use permit from the Forest Service. The legislation establishing the area stated that such "special use" permits would only be issued to the owner or lessee of record at the time. Now, nearly 20 years after enactment of the original law, some original owners have died and their heirs are seeking to continue their permits.

This provision amends the 1978 statute adding the Mineral King area to Sequoia-Kings Canyon National Park by specifically authorizing the National Park Service to issue cabin leases to the heirs of the original permittees of record until the death of the last permittee of record.

The language of the bill requires permittees to pay fair market value for such use, and specifically provides for protection of park resources and termination of the use if lands are needed for other purposes. The legislation provides that the Secretary must have the funds to implement such alternative use, rather than simply prepare a plan calling for such use. The Managers do not believe that these persons should be forced out of their cabins until such alternative use is a reality.

SECTION 817

Language is self-explanatory.

SECTION 818

This section directs the Secretary of the Interior to conduct a study of the Lake Calumet area to analyze alternative ways to manage the area.

SECTION 819

This section provides for a legislative taking of the balance of private property in the Gherini Ranch on Santa Cruz Island in Channel Islands National Park. The National Park Service currently owns a three-fourths undivided interest in the Gherini Ranch, which is a 6,200-acre parcel located on the east end of Santa Cruz Island. This parcel of land is currently being severely impacted by uncontrolled populations of feral sheep. While the Federal government has acquired three undivided one-fourth interest portions of this ranch on a willing seller basis, there is little hope of the Federal government reaching agreement with the remaining property owner regarding the value of the land. Therefore, in order to bring an end to overgrazing, and resultant impacts on park resources, including irreversible destruction of archeological sites, the Managers support this legislative taking.

TITLE IX: HERITAGE AREAS

SECTION 901

For an explanation of the text see Senate Report 104-42 (S. 601).

SECTION 902

The language is self-explanatory. The Managers agreed to direct the Administration to study the area.

TITLE X: MISCELLANEOUS

SUBTITLE A

The conference agreement includes language to create a tallgrass prairie national preserve in the Flint Hills of Kansas. The preserve will be created through a unique private/public partnership between the federal government and a private conservation group. The partnership is the culmination of decades of discussions between agriculture and conservation interests who, until now, have disagreed over issues such as federal ownership and cattle grazing as part of a tallgrass prairie preserve in Kansas. The language drafted in this legislation is the result of consensus building and compromise between these various groups.

While the conference agreement only provides for federal ownership, by donation, of 180 acres of land on the preserve, it is hoped that the National Park Service, through the cooperative agreement language contained in this bill, will be able to work with the private land owners (and its leasee) of the rest of the 10,894-acre ranch to provide interpretive and recreation opportunities within the boundaries of the preserve, but beyond the federally owned-core.

The stated purposes of this bill remain broad to give the National Park Service maximum flexibility in determining land use practices within the preserve through the general management planning process, with input from an advisory committee created by this bill. We believe a public planning process, with input from all Kansans, including local citizens and adjacent landowners, will enable the National Park Service to identify the best use for the 180 federally-owned acres, and provide guidance for possible cooperative agreements between the federal government and the private owner and its leasee.

The conferees note that the Kansas congressional delegation is united in its belief that a strong emphasis of the preserve should include the management of range lands through historic and contemporary ranching practices. While the conferees are unwilling to include language in the act that would require any predetermined use of private property mentioned within this bill, the conferees agree with the Kansas congressional delegation that current cattle ranching activities, consistent with the ecologically sound and sustainable management of this property, should continue after the preserve is created. Cattle ranching, as practiced under the current grazing lease, is consistent with the interpretation of the history and culture of the Flint Hills region of the tallgrass prairie.

SUBTITLE B

The language is self-explanatory.

SUBTITLE C

SECTION 1021

This provision establishes a national recreation area, changes the designation of the black canyon of the Gunnison National Monument to a National Park, and designates a new BLM conservation area on the Lower Black Canyons.

The conferees intend that all agencies operating within the newly designated complex share personnel, supplies, materials and equipment to the extent practicable for a more efficient and effective overall operation.

SECTION 1022

See Senate Report 104-299 (S. 1703) for background information. Miscellaneous amendments were added to protect the integrity of the park system.

SECTION 1023

The language is self-explanatory.

SECTION 1024

The language is self-explanatory.

SECTION 1025

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1026

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1027

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1028

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1029

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1030

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1031

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1032

For an explanation of the text see Senate Report 104-314 (S. 1662).

SECTION 1033

The language is self-explanatory.

SECTION 1034

The language is self-explanatory.

SECTION 1035

For an explanation of the text see House Report 104-761 (HR 2711).

SECTION 1036

The language is self-explanatory.

SECTION 1037

Despite Alaska's stature as the largest State in the Union and the millions of acres

of federal lands in the State, Alaska ranks 10th in Payment in Lieu of Taxes (PILT) receipts. This is because the definition of "unit of local government" includes only organized boroughs and certain independent cities in Alaska. Yet over 60 percent of the federal lands in Alaska are located outside any organized borough.

This section will not increase the current entitlement ceiling of PILT, it will only change the way the PILT fund is divided by providing a small additional share of the PILT fund distribution to those Alaskan communities that are outside unorganized boroughs. The legislation also will not reduce other states PILT funding significantly because PILT calculations also include population statistics.

SECTION 1038

The conferees have included bill language that prohibits termination of a timber sale contract solely for failure to operate a pulp mill. This provision is necessary to provide flexibility to the Administration so that jobs in the sawmill portion of the contract holder's operation are not lost along with pulp mill jobs. The Forest Service shall work with the contract holder to make any excess volume available to sawmills in Southeast Alaska closed for lack of timber.

SECTION 1039

This provision directs the Secretary of the Interior to undertake a negotiation with several Alaska Native Corporations in the Cook Inlet region of Alaska to resolve disagreements over final land conveyances to the Native Corporations under the Alaska Native Claims Settlement Act. The Secretary is required to report to the relevant authorizing committees the results of the negotiation by March 1, 1997. To facilitate the negotiation, the amendment extends a statute of limitations which could be interpreted as requiring the filing of a suit by the corporations against the Secretary for failure to convey lands described in the Deficiency Agreement of August 31, 1976.

SECTION 1040

This section authorizes the Native residents of the Southeast Alaska Native villages of Haines, Ketchikan, Petersburg, Tenakee and Wrangell to organize as urban or group corporations under an amendment to the Alaska Native Claims Settlement Act of 1971 (ANCSA). ANCSA authorized the creation of village, urban and regional corporations to receive settlements and manage assets distributed to settle aboriginal claims of Natives and Native groups in Alaska. The original ANCSA language failed to include the Native villages of Haines, Ketchikan, Petersburg, Tenakee or Wrangell in the exclusive list of villages in Southeast Alaska eligible to create village or urban corporation. Unlike the treatment of other Native villages elsewhere in Alaska, ANCSA did not provide an appeal right or other procedures for qualification of Southeast Native villages not included in the original list. Although Natives enrolled to Haines, Ketchikan, Petersburg, Tenakee and Wrangell during the ANCSA process did become at-large shareholders in the regional corporation for Southeast Alaska, Natives from these five communities were denied the benefits from rights to land and local resources that other village and urban corporations in Southeast Alaska received under ANCSA.

SECTION 1041

This section would transfer legal title to approximately 160 acres of land to Daniel and Douglas Gross. The Gross brothers are the surviving sons of Mr. and Mrs. Lee Gross of Wrangell, Alaska, the original homesteaders.

SECTION 1042

For an explanation of the text see House Report 104-687 (HR 1786).

SECTION 1043

The Conferees adopted a provision recognizing that in 1982, Cape Fox Corporation (CFC) selected approximately 320 acres surrounding the Beaver Falls hydro-project's powerhouse. The facility was constructed in 1945 and licensed by the FPC, now FERC. It is owned and operated by the City of Ketchikan through the Ketchikan Public Utilities. The City of Ketchikan protested CFC's selection of the site to the Interior Board of Land Appeals (IBLA). The IBLA upheld CFC's selection in a decision made in 1983. In this decision IBLA essentially ruled that the City could continue to operate the hydro facility under the terms of Section 14(g) of ANCSA until their license expired in 1995. At license expiration, use of the land by the City would be subject to acquisition of a real property interest from CFC.

A FERC order dated November 7, 1994, issuing the "new" license for this facility, Project No. 1922-008, includes a clause that directs the City to pay all land use fees including use of CFC land to the federal government. The effect of this decision removes CFC's property rights, which deprive CFC of its ability to make economic use of its land. The FERC order also creates a conflict between two federal agencies, IBLA and FERC.

This section grants authority for CFC to return the 320 acre Beaver Falls selection area to the federal government and expands CFC's selection area accordingly.

SECTION 1044

The conferees have included bill language requiring the Secretary to report to the relevant committees of the House and Senate on a determination of whether the continued presence of a small antenna at an existing radio communications site barely within the San Bernardino National Forest at Inspiration Point is in the public interest. The conferees regret the need to direct that such a report, given the overwhelming community support for continued presence of the antenna, is necessary for public safety and emergency broadcasts.

SECTION 1045

Between 1931 and 1954 local sporting enthusiasts and back country users built and constructed a series of 18 dams and concrete weirs throughout the area which later came to be known as the Immigrant Wilderness Area. These dams were built from native rock so as to blend in naturally with their surroundings, most of these dams do not exceed two feet in height. The last dam was built 20 years before wilderness designation was considered for the area.

Report language for H.R. 12884 which established the Immigrant Wilderness Area indicated that "the weirs and small dams will be retained." Inclusion of this provision in the conference report to preserve these dams will maintain traditional wilderness and recreation uses.

SECTION 1046

This provision concerns a longstanding inequity affecting the University of Alaska, the State's only federal land grant institution of higher learning. The University was established in 1890. However, because of Alaska's territorial status, it did not benefit from the original Morrill School Lands Act, which only benefited states. Congress sought to address this problem in 1915 and 1929 through legislation which reserved certain public lands in Alaska for the benefit of the University. Unfortunately, the University has as of today received less than one-third of the acres it was entitled to receive from the federal government. As a result, even though Alaska is the largest of the fifty states, it ranks 48th in terms of land devoted to higher education. This language begins to address both of these problems by authorizing the Secretary of the Interior to convey up to 350,000 acres of federal lands, on a matching basis with the State of Alaska, to the University.

TITLE XI: CALFIRONIA BAY-DELTA ENVIRONMENTAL ENHANCEMENT

The Managers agreed to the inclusion of this proposal which will authorize $430 million for fiscal years 1998 through 2000 for ecosystem protection and restoration in the San Francisco Bay-Delta region. These funds will represent the three-year federal match of state funds allocated in accordance with California Proposition 204. This provision is only effective if the corresponding state proposition 204 is adopted by the voters in November of 1996. If passed, the corresponding state proposition would provide $995 million in state dollars for the program.

DON YOUNG,
JAMES V. HANSEN,
WAYNE ALLARD,
J.D. HAYWORTH,
BARBARA CUBIN,
Managers on the Part of the House.

FRANK H. MURKOWSKI,
PETE V. DOMENICI,
DON NICKLES,
J. BENNETT JOHNSTON,
Managers on the Part of the Senate.

FBI AGENT'S BOOK RAISES CONCERNS

The SPEAKER pro tempore (Mr. ROTH). There being no Member to claim the minority leader's hour, under the Speaker's announced policy of May 12, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, we had two FBI agents who worked at the White House, both of whom have retired now, who are very concerned about the policies of the Clinton administration. I have talked with both of those individuals, and they have for the most part corroborated what each other said about what was going at the White House and it has been very disturbing. As a matter of fact, Gary Aldrich, one of the two FBI agents who worked at the White House, wrote a book called "Unlimited Access", and it raises a number of serious issues that I believe should be of concern to the American people. Much of the information in the book directly relates to matters that have been the subjects of investigation by the Committee on Government Reform and Oversight on which I serve. Much of the Aldrich book focuses on the security problems that he and his colleague Dennis Sculimbrine directly observed. The

background investigation process is very thorough and probing because we need to ensure that persons working at the White House do not have character or other problems that would endanger the President or otherwise jeopardize our national security.

The White House is no doubt very familiar with the book "Unlimited Access". In February, 4 months before the book was published, FBI general counsel Howard Shapiro gave the White House counsel Jack Quinn a copy of the manuscript of the book, even though the White House is supposed to play no role whatsoever in the FBI's prepublication review of books by former agents.

We were very concerned about that, because Mr. Shapiro was the assistant counsel to FBI Director Louis Freeh when he was a chief prosecutor in New York City, and Mr. Freeh was prosecuting some very high-profile figures, in the Mafia and otherwise. And for Mr. Shapiro not to know the policies of the FBI and the legal profession was just beyond me. Nevertheless, he went to the White House with this book, 4 months, to give the White House a heads up on what was going to be in the book so they could protect their derriere, and we thought that that was totally out of order.

Recently the Committee on Government Reform and Oversight learned that the White House attempted to send the manuscript of "Unlimited Access" back to the FBI. John Collingwood, the inspector in charge of the Office of Public and Congressional Affairs, returned the manuscript back to the White House. In a letter to Jack Quinn dated September 17, 1996 he said, "Because this is a document in the possession of the White House, which you have described as responsive to a congressional subpoena, we believe it would be inappropriate for the FBI to become involved in this matter."

I have a copy of this letter I want to submit for the RECORD, Mr. Speaker.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, September 17, 1996.

Mr. JOHN M. QUINN,
Counsel to the President,
The White House, Washington, DC.

DEAR MR. QUINN: This is in response to your letter to Director Freeh, dated September 13, 1996, in which you enclosed a copy of the manuscript of Gary Aldrich's book. Although your letter is marked "By Hand," it and the enclosure were sent by United States Priority Mail and received by the FBI only today.

We are returning the manuscript to you with this letter. Because this is a document in the possession of the White House which you have described as "responsive" to a congressional subpoena, we believe it would be inappropriate for the FBI to become involved in this matter.

You correctly note that Mr. Aldrich made certain deletions at the request of the FBI. However, the FBI prepublication review process should not affect your consideration of the subpoena. Nothing in the manuscript contains classified information.

Sincerely,

JOHN E. COLLINGWOOD,
Inspector-in-Charge,
Office of Public and Congressional Affairs.

This is very important, because they gave this book to the White House. The White House then tried to get it back to cover their tracks and the FBI said, "Hey, wait a minute, we don't want to be involved in this," and so they were not.

Now, a lot of things were pointed out in this book that I think the American people ought to know about, Mr. Speaker.

Illegal drug use in the Clinton administration was higher than in the Bush administration and not confined to minor use of marijuana that was used in the past. There were cases of several decades of use of marijuana. Clinton staffers' drug use included hard drugs such as cocaine, crack, LSD, and methamphetamine. These were people who went to work at the White House and they had been using hard drugs, cocaine, crack, LSD and methamphetamine, and those people were involved in issues of national security, and they had not had background FBI checks.

According to Mr. Aldrich in his book, he said, if I had to guess, about 10 percent of the persons coming to the Bush White House had tried an illegal drug, which was about a third of the national average, and it was almost always marijuana and only once. Prior use of cocaine was almost never, on occasion; use of more serious drugs was unheard of. The illegal drug use was invariably confined to an individual's college days.

Though the age breakdown in the Bush and Clinton administration was probably about the same, illegal drug use in the Clinton administration was much higher and not confined to minor drugs like marijuana. Generally if marijuana was used, it was not confined to the college years, either. In fact, a striking number of cases began to emerge in which the use of marijuana, once started in high school or college, continued into one's twenties, thirties and sometimes the forties. We were talking about decades of illegal drug use.

There was another important difference between the Bush and Clinton staffers. In the Bush administration, more of the younger, post-baby boom staffers had managed to get through college with no drug use at all. They were a reflection of the national downward trend in drug use inspired by Nancy Reagan's much mocked but effective "just say no" campaign, but in the Clinton administration it was harder to find young staffers who had not experimented with marijuana, cocaine, and heavier drugs. Evidently they just could not say no.

The minority of Bush applicants who experimented and admitted inhaling did not try to defend their use of illegal drugs. They were invariably apologetic. "Yes, I did smoke marijuana once or twice, I was in college and everyone was doing it, so I tried it. I stopped using marijuana after I left college, but I'm ashamed that I ever did it because it was stupid. I'm sorry agents like you are risking your lives fighting drug traffickers while I didn't have the guts to stand to peer pressure."

By contrast, and this is important, Mr. Speaker, the Clinton staffers, older or younger, made no apology for their illegal drug use, which was more extensive and included many heavy drugs like cocaine, crack, LSD, and methamphetamine. Many were actually in your face about it, using the FBI interview to try to debate me on the merits of making drugs legal.

Of course, when I asked them how they obtained their drugs, the lies began. It was a rare Clinton staffer who ever purchased any drugs. Almost all the Clinton staffers were given drugs by friends or could not recall who gave them the drugs or used the drugs at a party where they did not really know anybody there. But the fact is they had an attitude when they were confronted by the FBI agent there, Mr. Aldrich, by saying, "Hey, what's wrong with using drugs," in effect.

Clinton staffers often showed no remorse for drug use. They lied about purchasing drugs, as I just said, and they said someone gave them drugs. Bill Kennedy did not seem to regard the drug use as a serious issue. When a case came up involving a staffer who had admitted to serious illegal drug use over a long time, including recently, Kennedy said, quote, now this is one of the counsels to the President of the United States, "I can hardly fire somebody for being honest with the FBI, can I?" The staffer was still working at the White House when "Unlimited Access" was written and Mr. Aldrich left the White House. This is on page 118 of the book "Unlimited Access."

There were problems with White House interns, including theft of lap top computers. There may also have been drug problems. Livingstone, Mr. Livingstone was in charge of White House security. He is the one we have heard about with the 900 FBI files being brought to the White House improperly, and we believe illegally, and I might add at this point one FBI file was used by Chuck Colson during the Nixon administration, and he got a 2-year prison sentence. Mr. Livingstone had 900 and some FBI files, and nothing yet has been done.

Livingstone told the interns, "And I know that some of you guys are going to do it but don't get caught." Now this is the chief of security over there. "I know that some of you guys are going to do it but don't get caught. I mean, I am not asking you to become

a narc or anything, but go easy on that kind of thing." This is a White House security person in charge of security. Telling them, you know, "just don't get caught." That is unbelievable. That is on page 37 and 38 of the book, "Unlimited Access."

A White House intern told Craig Livingstone that she wanted to pursue an FBI career. Livingstone told her that the FBI would investigate her background thoroughly and she could not hide her past. Livingstone said, I mean, quote, this is a quote from him, "I mean, it isn't like the White House where you can use drugs before and skate past other indiscretions and still work here." In other words, if you are trying to get a job at the FBI, they are going to really scrutinize you, but at the White House you are not being scrutinized and you can get around that sort of thing. That is on page 118 and 119 of Mr. Aldrich's book.

FBI agents who conducted SPIN investigations; that is, the background check investigations for people wanting to work at the White House, were the first to see disturbing trends in the administration. Then the analysts at FBI headquarters saw them. Problems included drugs, bizarre sexual behavior, failure to pay taxes, failure to honor financial obligations, severe credit problems, bankruptcy, civil suits, liens, loan defaults, failure to repay federally funded student loans. These are people that were working at the White House. That is on pages 125 and 126 in Mr. Aldrich's book. I hope my colleagues will take the time to read that.

Now regarding the White House Travel Office and the FBI, we had a Travelgate investigation. The White House did not use Secret Service to investigate travel office staff because the Secret Service had traveled with Billy Dale and the Travel Office staff for years and had never seen the slightest evidence of wrongdoing.

On page 131, and I quote, "Why didn't they use the Secret Service then? Because Secret Service agents had been traveling with Billy Dale and his crew for years and had never seen the slightest evidence of theft or fraud."

Yet these people were accused of all kinds of wrongdoing. Their reputations were besmirched and ruined. They had to spend thousands and thousands of dollars of legal fees defending themselves and the Secret Service said there were never anything that they did wrong.

Craig Livingstone said that it was stupid of David Watkins at the White House to have the FBI investigate the Travel Office staff. Livingstone said this in a meeting on page 81H in the book, and I want to read to you what he said:

At the mention of the Travel Office, Livingstone, the chief of security there, really got going. "That blanking Watkins," he said. "I told them that Watkins was going to screw everything up." He is talking to Gary Aldrich, the guy, the FBI agent at the White House. "Gary, I sat in a meeting when it was decided that the Travel Office guys were going to get fired and that they would be reported to the FBI." So the FBI was supposed to try to make them look bad and to convince everybody in this country that they were guilty of wrongdoing:

> I told them they were nuts. Look, we had heard rumors that the press was taken care of by the Travel Office guys, bottles of wine in their rooms, easy customs exams and stuff like that, but it was stupid of Watkins to suggest that the FBI be brought into it. There was no wrongdoing.

Now, this is Livingstone working at the Clinton White House saying this:

> There was no wrongdoing, no illegal acts that we could prove. The only good rumor we had some some reporter brought in a carpet illegally through customs. A carpet. That was it. I argued very strongly against bringing in the FBI. It was wrong. We unnecessarily ruined their reputations. It was Watkins and Kennedy, Gary. This was their big idea of how to get rid of them. I told them it was stupid idea that would never work.

Nevertheless, Mr. Watkins and Mr. Kennedy, the White House counsel, and some people believe even the First Lady were involved in saying, "We're got to get those guys out of there so we can put our people in." And so they fired them and they accused them of wrongdoing, they summarily moved them out of the White House and after they moved them out of the White House, in an unmarked white van and made them sit in the back of it, they said that they were guilty of pilfering funds for the White House Travel Office. They were exonerated in less than about 10 minutes before a jury once the case went to trial, and yet they have never had their legal expenses paid and they have never received an apology, to my knowledge, from the White House.

Bill Kennedy said to Aldrich, this is assistant counsel to the President of the United States, Bill Kennedy said to Aldrich and Schulimbrine, "By the way, tomorrow you guys are going to hear about something you aren't going to like, but you're going to thank me for keeping you out of it."

□ 2315

Aldrich asked Kennedy what he was talking about. Kennedy said, I can't tell you now. Just read the papers. You are going to thank me for keeping you out of this thing. Just read the papers. And the next day, the White House Travel Office people were fired.

At the same time, the announcement was being made that the FBI would be conducting a criminal investigation of the White House Travel Office. Evidently the White House was going to FBI headquarters rather than having Aldrich and Scuimbrene, the agent on site at the white House, to investigate the travel office. So they went around them to people they thought they could work with at the White House.

And in our hearings today and in testimony that was sworn deposition involving Mr. Livingstone, we went through a litany of issues today and in the past, and we found that Mr. Livingstone and others had indicated that there were FBI agents who said that they would do favors for the White house. So they went around Sculimbrine and Aldrich, the agents on site there, and went to these other people. It creates a lot of questions about why they did that, and were they trying to get their political agenda through by using the FBI, which could involve some felonies.

Late one night, after the Billy Dale trial, Dennis Sculimbrine talked to Craig Livingstone in his office. Sculimbrine had been subpoenaed to testify in Billy Dale's defense. Livingstone said, I don't appreciate what you did for Billy Dale, Dennis. It wasn't helpful.

Sculimbrine, who is retired from the FBI, said he was subpoenaed. He had to tell the truth. What else could he do? I mean, he was subpoenaed, he had to go before the grand jury, and he had to tell the truth. What else could he do?

Livingstone responded, and I quote:

> The truth, Dennis? Don't you know the truth is relative? Your testimony was your version of the truth. Truth is what ever you want it to be. And another thing, I don't ever want to discuss anything related to the FBI or background investigations with you ever again.

That is on page 134 of the book. I hope my colleagues will read that, because that is the way to split hairs and to get to your ends by obfuscating or skirting the truth, so you can get what you want done. that is what they did, and they fired the White House staff. And because Mr. Sculimbrine, the FBI agent at the White House, told the truth, he was criticized severely by Mr. Livingstone.

Associate Counsel William Kennedy asked Aldrich what he thought about hiring Craig Livingstone in the first place. Mr. Livingstone had been involved, along with Mr. Marceca, his sidekick there at the office involving security, they had been involved in the nefarious political activities, dirty tricks, back in 1984 during the Gary Hart campaign. They were working for Mondale, and they were trying to get some information on some labor people who were supporting—I guess they were working for Hart and trying to get some information on some labor people supporting his opponent, and the fellow in charge of the campaign there said that he would not work with these fellows because they were involved in these dirty tricks, and they were summarily dismissed.

But anyhow, let me get back to the subject. Associate Counsel William Kennedy asked FBI agent Aldrich, on

the way to the airport when he was taking him out there to drop him off one day, what he thought about hiring Craig Livingstone to replace Jane Danehauer, and in particular asked him what he would think if there were character issues that were flaws in his background.

Aldrich simply responded that the position should be filled by someone who is squeaky clean, but Kennedy cut him off and said, quoting, "I guess I see your point, but it really doesn't matter. It is a done deal. Hillary wants him."

That is on page 36–K.

I will quote exactly what he said:

I responded gingerly, saying that it was a post that should be filled with someone squeaky clean, and before that, before Kennedy cut me off. And Kennedy did cut me off and he said, I see your point, but it doesn't matter, it is a done deal, Hillary wants him. So they hired Mr. Livingstone, and Mr. Livingstone was the one that got the 900-some FBI files unethically and, we believe, illegally.

Beginning after the election, the incoming Clinton administration stonewalled the FBI's attempts to conduct background investigations and interviews that were necessary to get clearances for people to go into the White House.

This is on pages 8 and 9.

But we were already off to a bad start. There were about 70 days between the election and the inauguration, sufficient time to complete a large number of Spin cases, that is background investigations. But for some reason there aren't many cases coming in. All of this chaos was so unnecessary, and eventually it caused the administration so much trouble that there seemed to be only 3 possible explanations, all disturbing: The administration was being managed by people so disorganized that they could not conform to basic procedures essential to the administration's own effectiveness; or, key people in the administration had simply decided the security procedures were not important and were taking a so what attitude toward possible scandal, embarrassment or worse; or, key people in the administration were so actively hostile to the background investigation process that they wanted to guarantee we wouldn't have enough time to perform adequate checks and follow up on allegations.

Now, think about that. These people are working in the White House on national security issues, and they did not have FBI background checks. That is unthinkable. Also think about the security of the President himself.

David Watkins was evasive in his background investigation interview, in particular, finally telling FBI agent Aldrich to back off because he was a close personal friend of Bill and Hillary Clinton.

That is on page 18–M.

He said back off, because I am a friend of Bill and Hillary.

That is on page 18.

FBI agents Aldrich and Sculimbrine made countless complaints and wrote many memos about the White House's lack of cooperation in background investigations. This is on pages 28 and 29.

Aldrich and Craig Livingstone were discussing the security problems at the White House. FBI agent Aldrich suggested they both talk to the White House counsel, Nussbaum. Livingstone replied Bernie Nussbaum, the chief counsel to the President? It is not Nussbaum we got to talk to. We will be talking to Hillary.

That is on pages 82 ad 83. Livingstone went on to say Hillary is the one to talk to. However, Livingstone never mentions the possible meeting to Aldrich again. Pages 82 and 83. I hope my colleagues will take a look at that. Most of this is all in sworn deposition by Mr. Aldrich.

The media reported that David Watkins, he wouldn't submit to an FBI background check. The media reported that David Watkins had been accused of sexual harassment in 1992. It was also reported that the victim of the harassment was illegally given $37,000 of campaign money from the Clinton campaign to keep quiet. The media reported that a document to this effect was crafted by Chris Barney, who is now working in the White House as a Cabinet secretary, a high level position.

Aldrich approached Barney regarding the matter because he believed it was relevant to Watkins' background investigation. Barney did not cooperate, and Aldrich wrote a memo to the FBI spin unit chief, James Bork, the man who was supposed to make sure they got the background checks, asking him to call the White House counsel's office to get the relevant people to submit to interviews. Nothing happened.

Aldrich was later told the case was to be closed without any interviews. They closed the case with no interviews, never got to the bottom of the White House, and Watkins was later fired for some of his nefarious activities. But the fact of the matter is they had evidence the Clinton for President campaign paid $37,000 to pay this girl off on a sexual harassment suit, yet the FBI couldn't even conduct a background check involving Mr. Watkins.

Dee-Dee Myers was uncooperative in filling out forms for her background investigation. In her position Myers was seeing and hearing highly classified, very sensitive national security information. Aldrich wrote a report about this problem and faxed it to headquarters and his immediate supervisor. The FBI ignored the report. They simply couldn't get through to the White House and to the President, because evidently they had gone around Sculimbrine and Mr. Aldrich, the FBI agents there, and had gone to somebody at the FBI who was willing to shut off the FBI background checks.

Related security problems. According to an October 1995 General Accounting Office report, from January 20, 1993 to March of 1994, only 24 employees in the Clinton White House had been cleared to handle classified documents. The Bush administration had hundreds of people handling the same volume of classified material. This raises a serious possibility that Clinton employees without security clearances were handling classified, secret material, in violation of the law. This is on page 67 and 68 of this book.

Mr. Aldrich says there was no way they could have handled the workload. I believe that classified material passed through the hands of Clinton employees without security clearances. After all, little or no regard was given to any other security related policy or procedure. Why would they treat classified documents any differently? Handling classified material without a clearance or allowing classified material to pass through uncleared personnel is a violation of Federal law and yet it was taking place. But to think of what it means for national security when just about anyone can handle classified material? It wouldn't take a KGB genius to infiltrate the Clinton administration. Apparently most of the White House documents are freely available to whomever might look at them, however inadvertently. Accordingly, many of the more than 200 volunteers who worked at the White House, worked for weeks, sometimes months, with no salary, no benefits and no security clearance to work at the White House. That is page 25–S.

Mr. Aldrich says, nor did they have any legal right to work in the White House, review classified material, or do anything else as government employees, and yet they had them working there.

Now, Vince Foster, before he committed suicide, or was found dead at Fort Marcy, Foster asked FBI agent Aldrich if all staffers in the West Wing were required to have FBI security background investigations. Aldrich said that Mr. Foster did not have a clue. This on page 73.

Clinton had the old phone system replaced, even though it had worked well. The new phone system cost more than $27 million. It offered staffers a secret unpublished phone number, a secret phone number, that even the FBI was not allowed to know about. FBI agent Aldrich was told please don't call it secret. It makes people around here nervous.

Patsy Thomasson responded with crude language that she would not furnish this phone list to the FBI. They wanted these phone numbers to be kept secret. Why would they not want the FBI to know about them? Maybe some things were going on on the phones that they simply did not want anybody to find out about. The new phone system was installed without the usual input or approval from neither the FBI or the Secret Service. Patsy

Thomasson and David Watkins made this decision. This is on page 46 and 47.

I would like to read a little bit of the dialog that took place. There was a lady there named Sylvia, who evidently worked with Patsy Thomasson, and Mr. Aldrich says on page 46, later I met a good friend in the hallway, a permanent employee who saw Patsy Thomasson frequently. Gary, there is no secret phone list. Her eyes swiveled to see if she had been overheard. Sylvia, it sure as hell is secret, if I, an FBI agent, can't get it.

Well, all right, Gary, but please don't call it secret. It makes people around here nervous. The next day a very muted and intimidated Sylvia called me. Gary, I passed your request on to Patsy, Patsy Thomasson, and you don't want to hear what she said.

Oh, go ahead. Nothing would surprise me anyhow, Mr. Aldrich said. When I told Patsy you wanted the list, she said screw the FBI, to hell with the FBI, they are not getting this list.

In addition to making it tougher to reach people, the new phone system was a security nightmare. The old system was self-contained and manned 24 hours a day. The new system was computerized and therefore not self-contained.

In preparation for this book, I interviewed a White House telephone company official who requested confidentiality. Gary, as you know, the Secret Service has always had a say in the past on changes to the phone system. This time they were effectively told to sit down and shut up. The system was installed without any of the usual input or approval from the Secret Service.

Oh, come on, you are kidding. What bonehead would cut the Secret Service out, Aldrich said?

No, I am not kidding, it was Patsy Thomasson and David Watkins who were the boneheads, Gary.

Aldrich met with Vince Foster and told him that the counsel's office had blocked the Secret Service from seeing the FBI background reports. This is important because the Secret Service needs to know if there is something problematic in an employee's background. This is on page 71 and 65. I want to read this.

Then Foster turned to the question of security as I had anticipated and hoped that he would. How is the security around here? Not that good, Mr. Foster. What is the problem? If the FBI knew I were offering you my opinions on the faults in the White House security, it would cost me my assignment or even my job.

It is all right, Gary, this is just between you and me. You have my word on that. Now, tell me what the problems are.

I told him the security process was still stalled and I was seriously worried about how the Secret Service had been blocked from seeing the FBI reports. Blocked? Who blocked them? Well, Mr. Foster, it was the counsel's office. He seemed surprised to hear this. He asked about the magnitude of the character issues we discovered during our investigations. I told him they were numerous and serious. I also told him I was not comfortable about giving him any information about any particular staff member. After all, many of these persons were his friends and there were questions of protocol and discretion. Any negative comments from me about specific individuals could be misinterpreted or even misused. Foster should simply order copies of the FBI summaries and read the results and judge for himself.

□ 2330

And he went on, on page 65:

In the past, the Secret Service had a right to determine the potential dangerousness of an individual and advise the counsel's office accordingly. In the past, there has been no question that the experts, the Secret Service, not the associate counsel, was the agency responsible for security and its recommendations carried great weight and were rarely, if ever, overruled.

To shut the Secret Service out from receiving the spin or background check reports would change the Secret Service into a reactive body. Without access to the background investigations, the Secret Service could not prevent security problems. It could only react once they had occurred.

In other words, denying the Secret Service access to background investigations would mortally wound its capacity to protect the President and everyone else who working in the White House.

Kennedy's problem was that he needed to hire Clinton's appointees regardless of their character issues that were considered irrelevant by the group as a whole. The yardstick by which person were selected to work in the Clinton administration was different from any yardstick used by the FBI or the Secret Service.

The Clintonites adjusted the White House security system accordingly and, I might add, to fit their needs. An example of this problem: Questions raised by Foster's death. What if he had brought a gun to the White House and shot himself there or shot others? The Secret Service had never examined his FBI summary. And that is on page 76. And I want to read that.

At 10 a.m. the next morning, I met a Secret Service buddy in the hallway of the Old Executive Office Building. We were both in deep shock. This is after Vince Foster's death. Not only because we knew Vince Foster but because we understood the possible ramifications of his death.

What if Foster had shot himself in his office? What if he had first turned the gun on others? The fact that the Secret Service had never examined Foster's FBI summary and had no idea what risk he might pose to others or to other staffers. I thought the security mess would hit the fan now and we might be called in front of a Congressional committee in a major battle between Congress, which had oversight responsibility, and the White House over the unconscionable and inexcusable risks that were being taken with the President's security. And I knew who would get the blame, the FBI and the Secret Service, not the higher-ups, not the Bernie Nussbaums and the others in that office who knew how to cover their tails.

Staffers with temporary I.D. wanted to bring visitors to the West Wing. Rules prohibit people with temporary passes from bringing in visitors. Secret Service turned them away, and the staffers got very angry. Within hours—

Because they were bringing people that should not have been in the White House.

Within hours, the rule forbidding uncleared staffers from bringing in visitors was waived.

That is on page 53 of the book.

Temporary pass holders had to go through the metal detectors. They didn't like this and got the rule rescinded, even though one Clinton volunteer got caught trying to bring in a pistol. Even though they tried to bring in a pistol through a metal detector, they got that waived, that you didn't have to go through the metal detector. That is absolutely ridiculous.

That is on page 53 of the book, and I hope my colleagues will read that as well.

Clinton criticized the Bush administration—this is a little side issue that I think my colleagues might get a kick out of. Clinton criticized the Bush administration's use of limousines, really small dark sedans, but bought new ones to replace the year-old vehicles.

And that is on page 17 of the book. I hope my colleagues will read that, because they used that in the campaign.

And as soon as they got into office, they bought all new ones.

Mr. BURTON of Indiana. There was an attempt to get retroactive pay. People showed up at the White House to work in the Clinton White House, with many not having a job arranged. Later, David Watkins wanted to pay them retroactively, go back and pay them for the time that they were volunteers before they were actually hired. He wanted to pay them for the volunteer work before they were actually hired.

The head of the personnel for the Office of Administration, Phil Larson, refused and then quit because they were forcing him to illegally go back and pay people when they were volunteers before they were hired by the White House.

This is on page 24, and I would like to read to you what it said there.

It eventually dawned on the Clinton administration that these people had to be given appointments. David Watkins called Larson and told him to draw up the appropriate documents. Larson told him, and Mr. Larson was the head of personnel for the Office of Administration, Larson hold him, "It is too late. It is illegal, illegal, to grant appointments retroactively to pay people. We would have to create phony documents to do that."

Watkins did not care whether it was legal or illegal. He ordered Larson to backdate

forms and create whatever documents were necessary, phony or not, so Clinton staff members could get paid. Larson refused, and he ultimately quit because he was under such pressure.

There were transition employees who were double-dipping. Twenty-five transition office staffers were also put on the White House payroll and, thus, were doubling-dipping. Some were caught by a General Accounting Office audit but as late as September of 1993 had not paid back the money. The White House said it was too busy to deal with this problem.

This is on page 24 and 25.

These 25 had no problem paying their bills since they were now collecting two taxpayer financed paychecks. Some were caught by the GAO audit and were forced to pay back the money, but as late as September 1993, 9 months after the Inauguration, they were still refusing to reimburse the Government and were resisting official notice they had committed what happened to be fraud against the Government and a Federal felony.

And, finally, a little footnote. Special agent, FBI agent Dennis Sculimbrene was waiting to interview Chief of Staff, Mack McLarty. He overheard a conversation between two of McLarty's assistants to the effect that Hillary Clinton wanted all of McLarty's ingoing and outgoing mail to go through her office.

This is on page 92. And he said in his book,

I do not know what she is trying to do. If we route all of McLarty's incoming and outgoing mail through her office, it's just going to create another step and delay things even worse.

Yeah, but Hillary wants to see who's coming in to see Mack and what he is reading and writing and working on. She wants to control this office. That's the long and the short of it. Hillary is trying to be the chief of staff. I guess we should just get ready for it, since nobody around here seems to know how to say no to Hillary.

These are just a few of the things that are in this book that are very disturbing to me, as a Congressman, I believe to the Committee on Government Reform and Oversight, of which I am a member.

And when we see these things involving national security, the security of the White House, security of sensitive information, top-secret information with people looking at them without having proper clearance, people breaking the law by getting back-pay when they are not supposed to, and trying to falsify documents, all of these things are things that we should not tolerate as a Government, and yet nothing has been done, by my knowledge, to bring any of these people to justice or to bring these things to a head or a conclusion.

So we are going to continue to pursue this. We are running out of time in this session of Congress, but the Committee on Government Reform and Oversight has issued a couple of reports that get to some of the questions and answers, but more needs to be researched.

No person, no group of persons, no individuals in this country are above the law. We are a Nation of laws and not of men or women. And when people break the law, no matter where they are in our society, the lowest person or the highest person, they should be held accountable. And toward that end, we must get to the bottom of these questions which have been raised in Mr. Aldrich's book.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEINEMAN (at the request of Mr. ARMEY) for today and the balance of the week, on account of illness.

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. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of California, for 5 minutes, today.

Mr. HALL of Texas, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. DRIER, for 5 minutes each day, on today and on September 25.

Mr. HOUGHTON, for 5 minutes, on September 25.

Mr. LONGLEY, for 5 minutes, today.

Mr. HOKE, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, on September 25.

Mr. MCINNIS, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. MICA, for 5 minutes, today, and on September 25.

Mr. RIGGS, for 5 minutes, today.

Mr, SHADEGG, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes today.

Mr. KINGSTON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous materials:)

Mr. HOKE, 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 Mr. PALLONE) and to include extraneous material:)

Mr. JOHNSON of South Dakota.

Mr. DIXON.

Mrs. LINCOLN.

Mr. MURTHA.

Mr. KANJORSKI.

Mr. KLECZKA.

Mr. FALEOMAVAEGA.

Mr. DEUTSCH.

Mr. LIPINSKI.

Mr. HAMILTON.

Mr. HOYER.

Mr. ANDREWS.

Mr. DEFAZIO.

Mr. UNDERWOOD.

Ms. NORTON.

Mr. ACKERMAN.

Mr. POSHARD.

Mr. THOMPSON.

Mr. FILNER.

Mr. STARK.

Mr. MILLER of California.

Mr. TOWNS.

(The following Members (at the request of Mr. GOSS) and to include extraneous material:)

Mr. CHRYSLER in four instances.

Mr. YOUNG of Alaska.

Mr. SMITH of New Jersey.

Mr. MARTINI in two instances.

Mr. BAKER of California.

Mr. BEREUTER in two instances.

Mr. CLINGER.

Mr. CASTLE.

Mr. SPENCE.

Mr. LIGHTFOOT.

Mr. GILMAN in two instances.

Mr. FRELINGHUYSEN.

Mr. BURTON of Indiana.

Mr. STOCKMAN.

Mr. FLANAGAN.

Mr. PORTER.

Mrs. JOHNSON of Connecticut.

Mrs. MEYERS of Kansas.

Ms. MOLINARI.

Mr. GOSS.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. SAXTON.

Mr. WALKER.

Mr. DORNAN of California.

Mr. KIM.

Mrs. FOWLER.

Ms. KAPTUR.

Mr. KLINK.

Mr. BALDACCI.

Mr. STARK.

Mr. DELLUMS.

Mr. VISCLOSKY.

Mr. BAKER of California.

Mrs. MEYERS of Kansas.

Mr. SOLOMON in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2101. An act to provide education assistance to the dependents of Federal law enforcement officials who are killed or disabled in the performance of their duties; to the Committee on the Judiciary.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight reported that that

committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following title:

On September 20, 1996:

H.R. 1772. An act to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex.

H.R. 2464. An act to amend Public Law 103-93 to provide additional lands within the State of Utah for the Goshute Indian Reservation, and for other purposes.

H.R. 2512. An act to provide for certain benefits of the Pick-Sloan Missouri River basin program to the Crow Creek Sioux Tribe, and for other purposes.

H.R. 2909. An act to amend the Silvio O. Conte National Fish and Wildlife Refuge Act to provide that the Secretary of the Interior may acquire lands for purposes of that Act only by donation or exchange, or otherwise with the consent of the owner of the lands.

H.R. 2982. An act to direct the Secretary of the Interior to convey the Carbon Hill National Fish Hatchery to the State of Alabama.

H.R. 3120. An act to amend title 18, United States Code, with respect to witness retaliation, witness tampering, and jury tampering.

H.R. 3287. An act to direct the Secretary of the Interior to convey the Crawford National Fish Hatchery to the city of Crawford, Nebraska.

H.R. 3675. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

H.R. 3676. An act to amend title 18, United States Code, to clarify the intent of Congress with respect to the Federal carjacking prohibition.

H.R. 3802. An act to amend section 552 of title 5, United States Code, popularly known as the Freedom of Information Act, to provide for public access to information in an electronic format, and for other purposes.

H.J. Res. 191. A joint resolution to confer honorary citizenship of the United States on Agnes Gonxha Bojaxhiu, also known as Mother Teresa.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 25, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5273. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Domestic Dates Produced or Packed in Riverside County, California; Assessment Rate [Docket No. FV96-987-1 IFR] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5274. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Almonds Grown in California; Assessment Rate [Docket No. FV96-981-2 FIR] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5275. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Vidalia Onions Grown in Georgia; Assessment Rate [Docket No. FV96-955-1 IFR] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5276. A letter from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the commander of Kessler Air Force Base [AFB], MS, has conducted a cost comparison study to reduce the cost of operating the grounds maintenance function, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

5277. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Community Development Revolving Loan Program for Credit Loans (12 CFR Part 701 and 705) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5278. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Organization and Operations of Federal Credit Unions (12 CFR Parts 701, 709 and 741) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5279. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Management Official Interlocks (12 CFR Part 711) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5280. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Supervisory Committee Audits and Verifications (12 CFR Part 701) received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5281. A letter from the Secretary of the Board, National Credit Union Administration, transmitting the Administration's final rule—Loans in Areas Having Special Flood Hazards (RIN: 3052-AB57) received September 23, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5282. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of discretionary new budget authority and outlays for the current year, if any and the budget year provided by H.R. 3517 and H.R. 3754, pursuant to Public Law 101-508, Section 13101(a) (104 Stat. 1388-578); to the Committee on the Budget.

5283. A letter from the Secretary of the Commission, Consumer Product Safety Commission, transmitting the Commission's final rule—Standard for the Flammability of Children's Sleepware: Sizes 0 Through 6XT, Standard for the Flammability of Children's Sleepware: Sizes 7 Through 14 (16 CFR Parts 1615 and 1616) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5284. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Current Good Manufacturing Practices for Blood and Blood Components: Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection [Docket No. 91N-0152] (RIN: 0910-AA05) received September 16, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5285. A letter from the Chairman, Nuclear Waste Technical Review Board, transmitting the Board's report entitled "Disposal and Storage of Spent Nuclear Fuel—Finding the Right Balance," pursuant to 42 U.S.C. 10268; to the Committee on Commerce.

5286. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(f); to the Committee on International Relations.

5287. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for production of major military equipment with Italy (Transmittal No. DTC-67-96), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5228. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting (RIN: 1018-AD69) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5289. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska [Docket No. 960129018-6018-01; I.D. 091896A] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5290. A letter from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting the Service's final rule—Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closure from the Oregon-California Border to Humboldt South Jetty, CA [Docket No. 960126016-6121-04] received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5291. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the annual audit of the Association as of June 30, 1996, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

5292. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on NASA's intent to declare Parcels III, IV, V and VI of the NASA Industrial Plant [NIP] as excess to the needs of NASA, pursuant to 42 U.S.C. 2476a; to the Committee on Science.

5293. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Revenue Ruling 96-49) received September 24, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5294. A letter from the Chief of Staff, Social Security Administration, transmitting the Administration's final rule—Income Exclusions in the Supplemental Security Income Program (RIN: 0960-AE22) received September 20, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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. CLINGER: Committee on Government Reform and Oversight. H.R. 1281. A bill to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II; with amendments (Rept. 104–819, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. H.R. 3452. A bill to make certain laws applicable to the Executive Office of the President, and for other purposes; with an amendment (Rept. 104–820, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. Sampling and Statistical Adjustment in the Decennial Census: Fundamental Flaws (Rept. 104–821). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 3391. A bill to amend the Solid Waste Disposal Act to require at least 85 percent of funds appropriated to the Environmental Protection Agency from the leaking underground storage tank trust fund to be distributed to States for cooperative agreements for undertaking corrective action and for enforcement of subtitle I of such act; with an amendment (Rept. 104–822, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 2508. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes; with an amendment (Rept. 104–823). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3155. A bill to amend the Wild and Scenic Rivers Act by designating the Wekiva River, Seminole Creek, and Rock Springs Run in the State of Florida for study and potential addition to the National Wild and Scenic Rivers System; with an amendment (Rept. 104–824). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3568. A bill to designate 51.7 miles of the Clarion River, located in Pennsylvania, as a component of the National Wild and Scenic Rivers System (Rept. 104–825). Referred to the Committee on the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 1791. A bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services; with an amendment (Rept. 104–826). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 2092. A bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes; with an amendment (Rept. 104–827 Pt. 1). Ordered to be printed.

Mr. HYDE: Committee of Conference. Conference report on H.R. 2202. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–828). Ordered to be printed.

Mr. DREIER: Committee on Rules. House Resolution 528. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–829). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 529. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3259) to authorize appropriations for fiscal year 1997 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 (Rept. 104–830). Referred to the House Calendar.

Mr. CLINGER: Committee on Government Reform and Oversight. H.R. 3841. A bill to amend the civil service laws of the United States, and for other purposes; with an amendment (Rept. 104–831). Referred to the Committee of the Whole House on the State of the Union.

Mr. COMBEST: Committee on Conference. Conference report on H.R. 3259. A bill to authorize appropriations for fiscal year 1997 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 purpose (Rept. 104–832). Ordered to be printed.

Mr. BLILEY: Committee on Commerce. H.R. 1186. A bill to provide for the safety of journeymen boxers, and for other purposes; with an amendment (Rept. 104–833 Pt. 1). Ordered to be printed.

Mr. McINNIS: Committee on Rules. House Resolution 530. Resolution providing for the consideration of the bill (H.R. 4134) to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997 (Rept. 104–834). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3752. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; with an amendment (Rept. 104–835). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 1296. A bill to provide for the Administration of certain Presidio properties at minimal cost to the Federal taxpayer (Rept. 104–836). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committees on Intelligence (Permanent Select) and the Judiciary discharged from further consideration. H.R. 1281 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committee on Ways and Means discharged from further consideration. H.R. 3391 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs discharged from further consideration. H.R. 3452 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATIONS OF REFERRED BILLS

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1281. Referral to the Committees on Intelligence (Permanent Select) and the Judiciary extended for a period ending not later than September 24, 1996.

H.R. 3452. Referral to the Committees on Economic and Educational Opportunities, the Judiciary, and Veterans' Affairs for a period ending not later than September 24, 1996.

H.R. 3391. Referral to the Committee on Ways and Means extended for a period ending not later than September 24, 1996.

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. LATOURETTE (for himself, Mr. STOKES, Mr. GILCHREST, Mr. TRAFICANT, Mr. REGULA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OBERSTAR, and Mr. MASCARA):

H.R. 4133. A bill to designate the U.S. courthouse to be constructed at the corner of Superior and Huron Roads, in Cleveland, OH, as the "Carl B. Stokes United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. GALLEGLY:

H.R. 4134. A bill to amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States who are not enrolled in public schools during the period beginning September 1, 1996, and ending July 1, 1997; to the Committee on the Judiciary, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS (for himself and Mr. STARK):

H.R. 4135. A bill to amend the Internal Revenue Code of 1986 to fully implement the

Newborns' and Mothers' Health Protection Act of 1996 and the Mental Health Parity Act of 1996; to the Committee on Ways and Means.

By Mr. McINTOSH (for himself, Mr. CONDIT, Mr. GOODLATTE, and Mr. DAVIS):

H.R. 4136. A bill to provide for a reduced rate of postage for certain mailings that, under Federal or State law, are required to be made by local governments; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON (for himself, Mr. McCOLLUM, Ms. MOLINARI, Mr. BARR, Mr. HEINEMAN, Mr. ACKERMAN, Mr. BAKER of Louisiana, Mr. BILBRAY, Mr. BLUTE, Mr. CHRISTENSEN, Mr. CLYBURN, Ms. DUNN of Washington, Mrs. FOWLER, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GREEN of Texas, Mr. JOHNSTON of Florida, Mrs. KELLY, Mr. McINTOSH, MR. McKEON, Mr. NETHERCUTT, Mr. OXLEY, Ms. PRYCE, Mrs. SEASTRAND, Mr. SHAW, Ms. SLAUGHTER, Mrs. VUCANOVICH, Mr. WALSH, Mr. WATTS of Oklahoma, Mr. WELLER, and Mr. PAYNE of New Jersey):

H.R. 4137. A bill to combat drug-facilitated crimes of violence, including sexual assaults; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALKER (for himself and Mr. BROWN of California):

H.R. 4138. A bill to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes; to the Committee on Science.

By Mr. SAXTON:

H.R. 4139. A bill to reauthorize and amend the Atlantic Striped Bass Conservation Act and the Anadromous Fish Conservation Act; to the Committee on Resources.

By Mr. BALDACCI:

H.R. 4140. A bill to establish a National Center for Rural Law Enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. BARRETT of Wisconsin:

H.R. 4141. A bill to ensure that purchasers of single family residential properties owned by the Department of Housing and Urban Development are notified of the penalties authorized for intentionally misrepresenting the purchaser's intent to occupy the properties after purchase and that purchasers indicating an intent to use such properties as their principal residences use the properties in such manner; to the Committee on Banking and Financial Services.

By Mr. BARTON of Texas (for himself and Mr. STENHOLM):

H.R. 4142. A bill to amend the Congressional Budget Act of 1974; to the Committee on the Budget, and in addition to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BLUTE:

H.R. 4143. A bill to amend the Immigration and Nationality Act to waive the English language and civics requirements for naturalization for persons who are over 65 and have resided legally in the United States for at least 20 years; to the Committee on the Judiciary.

By Mr. BREWSTER (for himself, Mr. YOUNG of Alaska, Mr. PETE GEREN of Texas, Mr. CHAMBLISS, and Mr. CUNNINGHAM):

H.R. 4144. A bill to protect and enhance sportsmen's opportunities and enhance wildlife conservation; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BRYANT of Texas (for himself, Mrs. MALONEY, Mr. CLAY, Ms. ESHOO, Mr. YATES, Mrs. LOWEY, Mr. TORRICELLI, Mr. LEWIS of Georgia, Mr. MORAN, Ms. VELAZQUEZ, Mr. LANTOS, Mr. BERMAN, Mr. FRANKS of New Jersey, Mr. FILNER, Mr. STARK, Mr. HINCHEY, Mr. FARR, Mr. DELLUMS, Mr. EVANS, Mr. GUTIERREZ, Mr. SERRANO, Ms. WOOLSEY, Mr. PORTER, Mr. ANDREWS, Mr. BROWN of California, Mr. BEILENSON, and Mr. NADLER):

H.R. 4145. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 and related laws to strengthen the protection of native biodiversity and ban clearcutting on Federal lands, and to designate certain Federal lands as Northwest Ancient Forests, roadless areas, and special areas where logging and other intrusive activities are prohibited; to the Committee on Agriculture, and in addition to the Committee on Resources, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANADY:

H.R. 4146. A bill to provide for the collection of certain information, in the next decennial census of population, relating to individuals who regularly provide care to a family member who is unable to care for himself or herself due to age or continuing physical or mental condition or impairment; to the Committee on Government Reform and Oversight.

By Mrs. CHENOWETH (for herself, Mr. CRAPO, Mr. DOOLITTLE, and Mr. COOLEY):

H.R. 4147. A bill to prohibit further extension or establishment of any national monument without an express act of Congress; to the Committee on Resources.

By Mr. FRANKS of New Jersey (for himself and Mr. FLAKE):

H.R. 4148. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson; to the Committee on Banking and Financial Services.

By Mr. HALL of Texas (for himself, Mr. ALLARD, Mr. BAKER of California, Mr. BALLENGER, Mr. BARCIA of Michigan, Mr. BARR, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BONILLA, Mr. BOEHNER, Mr. BROWNBACK, Mr. BRYANT of Tennessee, Mr. BUNN of Oregon, Mr. BUNNING of Kentucky, Mr. BURR, Mr. CAMP, Mr. CANADY, Mr. CHABOT, Mrs. CHENOWETH, Mr. CLINGER, Mr. COBLE, Mr. COBURN, Mr. COLLINS of Georgia, Mr. COOLEY, Mr. CREMEANS, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DICKEY, Mr. DOOLITTLE. Mr. DORNAN, Mr. DOYLE, Mr. DUNCAN, Ms. DUNN of Washington, Mr. ENGLISH of Pennsylvania, Mr. FRISA, Mr. FUNDERBURK, Mr. GOODLATTE, Mr. GRAHAM, Ms. GREENE of Utah, Mr. HASTINGS of Washington, Mr. HAYES, Mr. HAYWORTH, Mr. HILLEARY, Mr. HOKE, Mr. HOLDEN, Mr. HOSTETTLER, Mr. HOEKSTRA, Mr. HUNTER, Mr. HUTCHINSON, Mr. HYDE, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. KING, Mr. KASICH, Mr. KINGSTON, Mr. KNOLLENBERG, Mr. LaHOOD, Mr. LARGENT, Mr. LATHAM, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. McHUGH, Mr. MANTON, Mr. MANZULLO, Mr. MASCARA, Mr. MICA, Mr. MOORHEAD, Mr. MYERS of Indiana, Mrs. MYRICK, Mr. NEY, Mr. NORWOOD, Mr. OBERSTAR, Mr. ORTON, Mr. PACKARD, Mr. PARKER, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. POSHARD, Mr. QUINN, Mr. RAHALL, Mr. ROBERTS, Mr. SCARBOROUGH, Mr. SCHIFF, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mrs. Smith of Washington, Mr. SOLOMON, Mr. SOUDER, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. STUMP, Mr. STUPAK, Mr. TALENT, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TIAHRT, Mr. VOLKMER, Mrs. VUCANOVICH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WICKER, Mr. WOLF, Mr. MONTGOMERY, Mr. CONDIT, Mr. SISISKY, Mr. CRAMER, Mr. CLEMENT, Mr. DeLAY, Mr. BREWSTER, Mr. FROST, and Mr. DE LA GARZA):

H.R. 4149. A bill to clarify Federal law with respect to assisted suicide, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Economic and Educational Opportunities, Government Reform and Oversight, Resources, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HEFLEY:

H.R. 4150. A bill to suspend temporarily the duty on certain industrial nylon fabrics; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota (for himself, Mr. FALEOMAVAEGA, Mr. KILDEE, Mr. MILLER of California, and Mr. RICHARDSON):

H.R. 4151. A bill to establish a National Indian Bonding Authority Pilot Project to oversee the issuance of bonds to provide funding for the construction of schools of the Bureau of Indian Affairs of the Department of the Interior, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. LEWIS of Georgia:

H.R. 4152. A bill to designate the Federal building located at 100 Alabama Street NW, in Atlanta, GA, as the "Sam Nunn Federal Center"; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself and Mr. JONES):

H.R. 4153. A bill to extend health insurance and survivor annuity benefits to certain former spouses of Federal employees who would otherwise be ineligible for those benefits; to the Committee on Government Reform and Oversight.

By Mrs. MORELLA:

H.R. 4154. A bill to amend the Internal Revenue Code 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 4155. A bill to amend the Internal Revenue Code of 1986 to provide for individuals who are residents of the District of Columbia a maximum rate of tax of 15 percent on income from sources within the District of Columbia; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 4156. A bill to provide for special immigrant status for certain aliens working as journalists in Hong Kong; to the Committee on the Judiciary.

By Mr. RAMSTAD (for himself, Mr. GUTKNECHT, Mr. LUTHER, Mr. MINGE, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. SABO, and Mr. VENTO):

H.R. 4157. A bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business; to the Committee on Ways and Means.

By. Mr. RAMSTAD (for himself and Mr. MINGE):

H.R. 4158. A bill to exclude certain general service wages and hours associated with a separate skilled nursing facility owned by certain hospitals in determining a hospital's eligibility for continued geographic reclassification under the Medicare Program; to the Committee on Ways and Means.

By Mr. SAXTON (for himself, Mr. BONIOR, Mr. SHAW, Mr. ZIMMER, Mr. SMITH of New Jersey, Mr. JONES, Mr. PETRI, Mr. BREWSTER, Mr. NEUMANN, Mr. OBERSTAR, Mr. CLEMENT, Mr. BILIRAKIS, Mr. DEUTSCH, Mr. TORRICELLI, Mr. PALLONE, Mr. BALLENGER, Mr. LOBIONDO, and Mr. FRANKS of New Jersey):

H.R. 4159. A bill to amend title 17, United States Code, to protect vessel hull designs against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 4160. A bill to amend titles XVIII and XIX of the Social Security Act to require Medicare and Medicaid health plans to provide for orientation and medical profiles for enrollees and to require Medicaid health plans to assure appropriate immunizations for children; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself and Mr. MONTGOMERY):

H.R. 4161. A bill to provide for a role models academy demonstration program; to the Committee on Economic and Educational Opportunities.

By Mr. TORRICELLI:

H.R. 4162. A bill to amend the Employee Retirement Income Security Act of 1974 to provide continued participation under a defined benefit plan to employees who are terminated from employment within 7 years of attaining normal retirement age under the plan; to the Committee on Economic and Educational Opportunities.

By Mrs. MORELLA (for herself, Mrs. MYRICK, Ms. GREENE of Utah, Mrs. KELLY, Mrs. SEASTRAND, Mrs. ROUKEMA, Ms. DUNN of Washington, Mrs. JOHNSON of Connecticut, Mrs. FOWLER, Mrs. VUCANOVICH, Ms. MOLINARI, and Mrs. MEYERS of Kansas):

H. Con. Res. 216. Concurrent resolution providing for relocation of the Portrait Monument; to the Committee on House Oversight.

By Mr. MORAN (for himself, Mr. PORTER, Mr. LANTOS, Ms. MOLINARI, and Mr. ENGEL):

H. Con. Res. 217. Concurrent resolution concerning human and political rights of the Bosniac people of the Sanjak region of the Federal Republic of Yugoslavia (Serbia/Montenegro); to the Committee on International Relations.

By Mr. LINDER:

H. Res. 531. Resolution relating to a question of the privileges of the House.

By Mr. LEWIS of Georgia:

H. Res. 532. Resolution relating to a question of the privileges of the House.

By Mr. BONO:

H. Res. 533: Resolution amending the Rules of the House of Representatives to require that every Member establishes a written office policy regarding standards for the use of computer software, programs, and data bases; to the Committee on Rules.

By Mr. CLINGER:

H. Res. 534. Resolution recognizing and honoring the crew members of the U.S.S. *Pittsburgh* for their heroism in March 1945 rendering aid and assistance to the U.S.S. *Franklin* and its crew; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Florida:

H.R. 4163. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the vessel *Medrx III;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 553: Mr. KOLBE.

H.R. 784: Mr. GOODLING.

H.R. 789: Mr. SAM JOHNSON, Mr. ABERCROMBIE, and Mr. SKEEN.

H.R. 858: Ms. SLAUGHTER and Mrs. SEASTRAND.

H.R. 1073: Mr. EHLERS and Mr. CAMP.

H.R. 1074: Mr. EHLERS and Mr. CAMP.

H.R. 1309: Mr. BALDACCI, Mr. FLAKE, Mr. ACKERMAN, Mr. HASTINGS of Florida, and Mr. ABERCROMBIE.

H.R. 1427: Mr. GOODLING.

H.R. 1507: Mr. YATES.

H.R. 1619: Mr. MCHALE.

H.R. 1994: Mr. ANDREWS.

H.R. 2011: Mr. HEFNER.

H.R. 2508: Mr. EVANS, Mr. WELDON of Pennsylvania, Mr. ROGERS, and Mr. PETE GEREN of Texas.

H.R. 2579: Mr. FAWELL and Mr. LAZIO of New York.

H.R. 2727: Mr. CAMP.

H.R. 2807: Mr. THOMPSON.

H.R. 3201: Mr. FRELINGHUYSEN.

H.R. 3217: Mr. ABERCROMBIE.

H.R. 3244: Mr. JACKSON.

H.R. 3355: Mr. THOMPSON and Ms. RIVERS.

H.R. 3401: Mr. SHADEGG.

H.R. 3436: Mr. DELLUMS, Mr. ACKERMAN, Mr. FROST, Mr. DEFAZIO, and Mr. NADLER.

H.R. 3714: Mr. FOGLIETTA and Mr. TORKILDSEN.

H.R. 3752: Mr. DICKEY and Mr. CREMEANS.

H.R. 3804: Mr. KILDEE.

H.R. 3830: Ms. SLAUGHTER, Mr. ACKERMAN, Mr. BALDACCI, Mr. GREEN of Texas, and Mr. FATTAH.

H.R. 3838: Mr. NEY.

H.R. 3839: Mr. EVANS, Mr. BAESLER, and Mr. KLECZKA.

H.R. 3857: Mr. GEJDENSON and Mr. HORN.

H.R. 3947: Mr. BARCIA of Michigan.

H.R. 3950: Mr. BALDACCI.

H.R. 3963: Mr. EVANS and Mr. ENSIGN.

H.R. 3966: Mr. BATEMAN and Mr. BOEHLERT.

H.R. 4028: Mr. TOWNS, Mr. STUPAK, Mr. BROWN of Ohio, Mr. FROST, and Mr. OBERSTAR.

H.R. 4045: Mr. LEWIS of Georgia.

H.R. 4046: Mr. RANGEL and Mr. FATTAH.

H.R. 4067: Mr. ROMERO-BARCELO, Mr. KIM, Mr. FRAZER, and Mr. RAHALL.

H.R. 4068: Mr. BACHUS, Mr. QUINN, Mr. GUTIERREZ, Mr. SCHAEFER, Mr. BARRETT of Nebraska, and Mr. LONGLEY.

H.R. 4073: Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Mr. BROWN of Ohio, and Mr. KINGSTON.

H.R. 4120: Mr. DOOLITTLE and Mr. COOLEY.

H.R. 4126: Mr. TORRES, Mr. BEILENSON, Mr. CAMPBELL, Mr. LEWIS of California, and Mr. BECERRA.

H.R. 4131: Mrs. MINK of Hawaii, Mr. BACHUS, Mr. WATTS of Oklahoma, Mr. BROWN of Ohio, Mr. BOEHLERT, Mr. RICHARDSON, Mr. GILMAN, Mr. DEFAZIO, Mr. FARR, and Mr. CRAMER.

H. Con. Res. 145: Mr. HAMILTON.

H. Con. Res. 199: Mr. TORRES.

H. Con. Res. 209: Mr. BARRETT of Wisconsin and Mr. LIPINSKI.

H. Res. 515: Mr. BONIOR, Mr. PORTMAN, Mr. GREEN of Texas, and Mr. WELDON of Florida.

H. Res. 518: Mr. MILLER of California, Mr. DELLUMS, Ms. LOFGREN, Mr. WYNN, Mr. BLUMENAUER, and Mr. CUMMINGS.

H. Res. 521: Ms. ESHOO, Mr. CLEMENT, Mr. LEWIS of Georgia, and Ms. LOFGREN.

EXTENSIONS OF REMARKS

IN HONOR OF DR. RUSSELL F. BLOWERS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BURTON of Indiana. Mr. Speaker, I would like to recognize one of the best men I have had the privilege to know. His life reflects his life's work: Preaching the message of Jesus. Dr. Russell F. Blowers has served his congregation at East 91st Street Christian Church in Indianapolis for 45 years. As Russ retires I am filled with mixed emotions. While I am happy that he will be able to have time for new ventures, he will be sorely missed in the weeks, months, and years to come.

Under his committed leadership, Dr. Blowers has seen church membership grow from 85 people on his first Sunday, to nearly 4,000, making it one of Indiana's largest congregations. East 91st Street Church has provided a myriad of ways for its members to serve, grow spiritually, and evangelize. Russ attributes this amazing growth to having stayed true to the Christian scriptures. By God's grace, Russ has remained faithful to the gospel by preaching the lordship of Jesus Christ, the power of the Holy Spirit, the essential plan of salvation through the Cross and resurrection, and the inerrant nature of the divinely inspired Word of God.

Russ Blowers has preached about issues that transcend politics and reflect unchangeable Biblical truths, such as opposition to abortion and that homosexuality is against God's will. Russ has counseled Senator RICHARD LUGAR, former Vice President Dan Quayle, Representative ANDY JACOBS, and myself, a member of the church since 1981. ANDY JACOBS has said, "I think Russ's legacy will be that he showed us all the potential of the human heart. He showed us what a considerable contribution one person can make by simply seeking to love and be loved in return." I wholeheartedly agree with my colleague. Russ Blowers has lived out the words he has preached. He is Christ-like.

Russ was born in Zanesville, OH, in 1924. He is a World War II veteran, having served with the 343d Fighter Squadron, 55th Fighter Group of the 8th Air Force in England and Germany. After his return from the 8th Air Force, Russ entered Ohio University as a journalism-advertising major and met his future wife, Marian. She introduced Russ to Christianity. "She didn't beat me over the head with the Bible." he says. "She just lived the life and answered my dumb questions about the Bible. I fell in love with her first and then with my Lord."

After graduation from Ohio University, Russ received a Master of Divinity from Christian Theological Seminary and Milligan College later conferred on him with the Doctor of Divinity. Dr. Russ Blowers became pastor of East 49th Street Christian Church in 1951. As the church grew, the congregation changed its name when it moved to 6049 East 91st Street. Russ Blowers preached his final sermon on September 8, 1996. He sums up his ministry by reflecting, "Above all, as I close this phase of my ministry, I give God the glory for whatever has been accomplished. He has been faithful to me beyond my deserving, and my most precious honor is being one of His children, one of His servants."

Russ has also been involved in ministry beyond his local congregation. He has preached in 11 nations and has hosted nine tour groups to Europe and the Middle East. He hosted "The Chapel Door" live on WISH–TV daily for 12 years. Russ has also been a contributing columnist for "The Lookout Magazine" as well as the church's newsletter "The 91st Edition."

Russ and Marian have two sons: Philip, Marion County deputy prosecuting attorney; and Paul, associate professor of church history at Emmanuel School of Religion. Their accomplished sons will confirm that this Pastor who loved the congregation of East 91st Street is the same genuine article at home with his family as he is in the pulpit. The Blowers also have four grandchildren: Shannon, Alison, Leslie, and Colin.

Russ has not only been a great pastor, he has also been my good friend and confidant through the years. May the Lord continue to bless Russ and Marian very generously in the years to come, in the way that they have been a blessing to others.

ST. BONIFACE CHURCH CELEBRATES 100TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues, the 100th anniversary of St. Boniface Church in Wilkes-Barre, PA. I am pleased to have been asked to participate in the observance of this milestone.

On August 16, 1896 a group of German immigrants from the Pfalz region of Bavaria met to form a new congregation. An executive committee of 12 was formed to obtain permission from the bishop to build a new church. When permission was granted a lot was purchased on Blackman Street in Wilkes-Barre. Five men mortgaged their homes to provide the initial money to build the church. On October 4, 1896 the cornerstone of the church was laid by Bishop O'Hara. The original construction cost of the church was $4,345.

On the suggestion of Bishop O'Hara and reflecting the German heritage of the majority of the parishioners, the church was named after St. Boniface, the apostle of the Germans as the church's patron saint.

The first mass was held in March 1897 in the newly built church which still didn't have pews. The dedication of the church followed shortly after that. The first pastor of the church was the Reverend Charles J. Goeckel who lived with neighbors until a rectory could be built at the church.

The church began a series of fundraising activities and parish socials in order to raise money for construction of facilities and to provide community services for the parishioners. The traditional St. Boniface "Kaffee Klatsch" is still held today on Shrove Tuesday night as a way for members of the parish to get together.

Under the leadership of the Reverend Charles Von Weldon, the parish and community offerings of St. Boniface grew and the adjoining convent was enlarged.

Mr. Speaker, every succeeding pastor of St. Boniface helped to expand and enlarge the property and make the parish prosper. The church today is an important presence in the religious life of the Wyoming Valley. Serving German immigrants and others for 100 years, St. Boniface has continued the traditions and preserved the heritage of its founders.

Mr. Speaker, I am proud to congratulate St. Boniface on this milestone in its history and send best wishes for continued prosperity.

THE PASSING OF EVELYN DAVIS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. GILMAN. Mr. Speaker, I rise with deep regret to inform our colleagues of the passing of an outstanding journalist and publisher who was widely read and respected in my 20th district of New York.

Evelyn Burtz Davis, a resident of Old Tappan, NJ, was the publisher of the Rockland County Times, located in Haverstraw, NY. Recently, she became publisher also of the Rockland Review, also published in Rockland County, NY.

In her role as publisher of the Times since 1984, she became known for the caustic comments and unique insight of her editorials. Although she quite often advocated stands on issues with which on occasion I was in total disagreement, no one could ever question the extensive research which Evelyn undertook on each and every editorial she composed. While many of us may have often questioned her conclusions, no one ever questioned the factual validity of the data which led her to make these conclusions. No one ever questioned the intellectual integrity for which Evelyn Davis became a living legend in our community.

Perhaps most significantly of all, no matter how deeply Evelyn may have disagreed with a

public official on an issue, she always welcomed divergent points of view, and was never afraid to change her mind or to have errors pointed out to her. Evelyn always, with gracious enthusiasm, afforded space in her own newspaper for those who wished to express opinions contrary to her own or who wished to rebut her editorials.

Evelyn was the widow of Sylvan Davis, who preceded her as publisher of the Rockland County Times. During Sylvan's tenure as publisher, from 1974 until his untimely death in 1984, the Rockland County Times enjoyed an outstanding reputation as a fair, accurate mirror of the community news. During the tenure of Sylvan Davis as publisher of the Rockland County Times, this newspaper, which was over 100-years old, enjoyed a resurgence as a thought provoking and thorough medium for the issues and news of the day.

Throughout his time as publisher, Sylvan's wife Evelyn was always at his side with sage advice and assistance. The publication of the Times became a joint effort. Accordingly, when Sylvan quite suddenly and unexpectedly passed away in 1984, it was no surprise to any of us that Evelyn agreed to take up his fallen torch.

Evelyn Burtz was born July 14, 1933, in New York City, the daughter of the late Alexander and Gussie Goldstein Burtz. Evelyn attended Pennsylvania State University and earned a degree in journalism from the New York University School of Commerce, now known as the Stern School of Business. Evelyn went to work for Macy's Department Store, and after 15 years of dedicated service, worked her way up to the position of home furnishings coordinator.

Evelyn married Sylvan Davis on November 7, 1965. Their marriage brought about one of the outstanding mergings of intellect. It was during this period that the Davis' became my friends, and I will cherish the memories of that friendship forever.

In addition to her responsibilities as publisher, Evelyn Davis served on the School Board in Old Tappan, NJ, from 1981 to 1987. She was also an outstanding mother to two children: Paul Allen Davis, who now resides in Minneapolis, MN, and Randy Allison Davis, who still resides in Old Tappan.

Since the earliest days of our republic, the press has been a major component of our democratic form of government. Ben Franklin has been the model of the outstanding journalist turned patriot.

Evelyn Davis, like her husband who predeceased her, was just such a patriot. She believed the press existed to educate, to inform, and to stimulate thought.

Mr. Speaker, I shall profoundly miss the insight and thoughtfulness of Evelyn Davis, and I invite all of our colleagues to join with me in extending our condolences to her son, her daughter, her four nieces, and the many employees and community leaders who loved this truly remarkable woman.

"SUSPICIOUS CRIME REPORT"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following editorial regarding violent crime rates and the Clinton administration which appeared in the Omaha World Herald on September 20, 1996.

[From the Omaha World Herald, Sept. 20, 1996]

SUSPICIOUS CRIME REPORT

The Clinton administration claims that it has significantly reduced violent crime. So why don't Americans feel safer?

For one thing, the administration's claim is based in part on a survey in which the methodology had been changed. For another, even if the crime rate had a one-year decline, a similar survey showed no significant decline in the 1992-94 period. Moreover, the statistics still don't reflect the evidence of the creeping chaos that is encountered by many citizens on their streets and in their neighborhoods.

Researchers at the Justice Department's Bureau of Justice Statistics said this week preliminary results of a survey show that an estimated 9.9 million violent crimes were committed in the United States in 1995, a 9 percent drop from the previous year, but a decline of only 3.7 percent from 1992. Attorney General Janet Reno said the figures demonstrated that the Clinton administration had found "solutions that work."

The Justice Department released the survey report at an odd time. Last year, no preliminary estimates at all were released. This year, though spring is the normal release time, the estimates were not made public until this week. It's just a coincidence, we suppose, that the election is only seven weeks away.

President Clinton hailed the report as proof that "we're moving in the right direction," implying that the administration had caused a drop in crime.

However, the numbers don't reflect actual crimes. They are from an estimate based on a survey. Unreported crimes—a wildly speculative notion—are included. Moreover, the survey did not track homicides.

The sharpest decline in violent crimes was in rape. The Justice Department's National Crime Victimization Study included date rape, and in the category of domestic violence and date rape it used "enhanced questions" to get a better estimate. The result was that in spite of reports of increased sexual assaults by rape crisis centers, the Justice Department estimated that rapes declined from 432,700 in 1994 to 354,670 last year. Crime experts were stunned.

If rape figures—either in 1994 or in 1995—are treated with the skepticism that they deserve, and if homicides weren't even included, what is left is at best a slight one-year decline in aggravated assault, simple assault and robbery—as reported by victims, not as reported to the FBI.

Another way to calculate the crime rate is to consolidate the figures from local law enforcement reports. That is the method used in compiling the FBI's annual Uniform Crime Report, made public last May. The dean of the criminal justice college at Northeastern University, noting that the FBI report indicated a 4 percent decline, said the country was experiencing "the calm before the crime storm." Other experts said that as the children of the baby boomers move into the high-crime 15-to-24 age bracket, more violent crime is likely. * * *

Americans are entitled to be annoyed at political rhetoric and rosy statistics purporting to show that violent crime is decreasing sharply. If they now have to barricade themselves inside a car and have a cellular phone in order to drive the streets of Omaha safely at 8 in the morning, government at all levels is failing. And the Clinton administration's claims to have made a major difference are no better than a sick joke.

INTRODUCTION OF THE BOAT PROTECTION ACT OF 1996

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SAXTON. Mr. Speaker, today I am introducing a bill to stop an increasingly common problem facing America's marine manufacturers. This problem, originally brought to my attention by a boat manufacturer in my congressional district, entails the theft of proprietary designs with respect to the production of boat hulls. Such piracy threatens not only the integrity of the U.S. marine manufacturing industry, but the safety of America boaters as well.

Boat manufacturers invest significant resources in the design and development of safe, structurally sound, and often high performance boat hull designs. Including research and developmental costs, a boat manufacturer often invests as much as $50,000 to develop a design from which a single line of vessels can be manufactured. When a boat hull is designed, and the engineering and tooling process is completed, engineers then develop a boat plug, from which they construct a boat mold. The manufacturer is then able to produce a particular line of boats from this mold. In contrast, those intent on stealing the original boat design, rather than developing their own, can simply use a finished boat hull in place of the manufacturer's plug to develop or splash a mold. This copied mold can then be used to manufacture a line of vessels with a hull identical to that appropriated from the competitor at a cost well below that of the company that originally designed the hull.

Hull splashing is a significant problem for consumers, as well as manufacturers and boat design firms. Consumers of copied boats are defrauded in the sense that they are not benefiting from the aspects of the hull design, other than shape, that are structurally relevant to safety. It is also more unlikely that consumers are aware that a boat has been copied from an existing design. Moreover, if manufacturers are unable to recoup at least some of their research and development costs, they may no longer be willing to invest in new, innovative boat designs—designs that could lead to safer watercraft for consumers.

The Boat Protection Act of 1996 would work in concert with current Federal law to protect American marine manufacturers from harmful and unfair competition from unscrupulous foreign and domestic rivals.

I urge my colleagues to support the Boat Protection Act of 1996 and stand with me in

my effort to protect the American public and the marine manufacturing community from the assault on American ingenuity caused by hull splashing.

TRIBUTE TO VETERANS OF FOREIGN WARS ALBION PLACE MEMORIAL POST NO. 7165

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MARTINI. I rise today in recognition of the Veterans of Foreign Wars Albion Place Memorial Post No. 7165. This year marks their 50th anniversary of service to the citizens of Clifton, NJ. They will be celebrating their 50th anniversary on September 21, 1996, with a dinner at the Three Saints Cultural Center in Garfield, NJ.

Mr. Speaker, the history of VFW Post 7165 is a lesson in perseverance and determination. Not only were the original members of the post tested in war, but also in patience.

Without a building or hall to call home, VFW Post 7165 first met in the Clifton Volunteer Fire House. Soon thereafter, they were granted permission to meet in the Acquanonck Gardens Community Center. As luck would have it, Mr. Speaker, the community center was destroyed by a devastating fire before the post was even able to hold its first meeting.

However, the original members of Post 7165 were resolute in their decision not to let this setback ruin their vision of a refuge to honor patriotism. They rebuilt the community center from the ashes of the fire and established the first true home of VFW Post 7165 in the early 1950's. Today, Mr. Speaker, with over 580 members, the post has the largest following in Passaic County,

The large membership of VFW Post 7165 not only selflessly served their country, but continues to donate its time and efforts to help all members of the Clifton community. VFW Post 7165 is involved in a number of charitable and community-oriented activities in Clifton. For example, the post is highly active in the education of young adults. It supports Project Graduation which provides assistance to the Clifton High School graduating class and awards college scholarships to the winners of essay contests. In addition, the post promotes and administers safety program for the youngsters of the city.

VFW Post 7165 also supports and recognizes the police and firefighters for their unyielding allegiance to the community, and champions American patriotism through their appearances at various community functions, marches and parades.

Mr. Speaker, I join Veterans of Foreign Wars Albion Place Memorial Post No. 7165 in their celebration of 50 years of service. I encourage others to emulate their actions and salute their commitment to excellence.

DAN CANTU—IN APPRECIATION OF A JOB WELL DONE

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. LIGHTFOOT. Mr. Speaker, this week the House of Representatives will be losing one of its finest staff members when Dan Cantu leaves us to begin, with his wife Karin, law school at the University of Chicago.

For the past 4 years Dan has served on the professional staff of the House Appropriations Committee, and, specifically, as a staff member on my Treasury Appropriations Subcommittee. Dan Cantu embodies the professionalism and excellence found throughout the entire staff of the House Appropriations Committee. Dan has worked on some of the most difficult, challenging, and technical issues under our subcommittee's jurisdiction. In every instance, he has risen to the challenges presented him with grace and good humor and helped the Congress reach agreement on what are often extremely difficult fiscal and policy issues.

The House is not only losing an excellent staff member, I am losing someone I have come to rely upon and who has become my friend. All of us on the Treasury Appropriations Subcommittee wish Dan and Karin all the best as they begin their studies.

DOMESTIC VIOLENCE SERVICE CENTER 20TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues a very important anniversary which will be commemorated in my district in October. The Domestic Violence Service Center [DVSC] will observe the 20th anniversary of its founding. I am pleased to have the opportunity to commend the center for its tireless dedication to helping women and children in crisis.

Originally called Womencenter when it was first conceived in October 1976, the DVSC began as an assessment agency to focus on the needs of area women. The pleas for help from battered women in the first 6 months was overwhelming. Because of this the Womencenter refocused its purpose to address the issue of domestic violence and how it affects women and children in the Wyoming Valley. A task force was formed to study the issue. The result of that meeting was the founding of the Pennsylvania Coalition Against Domestic Violence [PCADV]. The first coalition of its kind in the United States, the PCADV is still a leader in victims' rights issues in the State and the Nation.

In 1977, the Womencenter received a grant to develop a full-time domestic violence program. Services expanded and a liaison with Legal Services of Northeastern Pennsylvania was established.

A speakers' bureau was begun to promote community awareness. In 1978, the task force established the first shelter for battered women in northeastern Pennsylvania. Within 1 week the unadvertised shelter was completely filled to capacity. That June the Womencenter incorporated as the Domestic Violence Service Center. A board was formed and the first officers were elected.

Mr. Speaker, the Domestic Violence Service Center has served the area as a shelter, an advocacy agency, an outreach center, and a counseling center. The DVSC has been on the forefront of public education of domestic violence and involved with other social service agencies and the District Attorney's office in creating a county wide protocol for the handling of domestic violence cases. The center has coordinated with local police forces to create a common protocol in handling the actual distress calls. This program serves as an example to the entire State of Pennsylvania.

Most importantly, Mr. Speaker, the Domestic Violence Service Center has provided shelter for thousands of battered women who flee their homes often in the middle of the night afraid for their lives and the lives of their children.

Mr. Speaker, the impact of domestic violence affects the entire community. Each year the center conducts a solemn and poignant candlelight vigil at the Luzerne County Courthouse to commemorate Domestic Violence Month. I have had the honor of participating in this event. I am proud to commend the hardworking staff, board of directors, and volunteers on their dedicated effort to help those who would otherwise be trapped indefinitely in a crisis situation. Through their work and dedication they offer a place for women and children to turn to break the cycle of violence. Although this anniversary is not a celebration, it is a call to each of us to help stop this devastation of the American family. Mr. Speaker, I hope this anniversary will expand public awareness of the important work that the DVSC does.

A TRIBUTE TO PERSONNELMAN FIRST CLASS CARL JOHN PALMER, JR.

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. GILMAN. Mr. Speaker, it has come to my attention that a constituent of mine who has enjoyed an excellent record with the U.S. Naval Reserve is retiring after 20 years of loyal and faithful active service.

Personnelman First Class Carl John Palmer, Jr., began his military career in the U.S. Navy in 1976 at the Recruit Training Center in San Diego, CA. After completion of recruit training in March 1977, he transferred to Attack Squadron Eighty-Two, Naval Air Station, Cecil Field, FL. In June 1978, he was transferred to the Naval Technical Training Center in Meridian, MS, for Personnelman Class "A" School.

Subsequent to graduation from that school, PN1 Palmer enjoyed a distinguished career with the U.S. Navy Training and Administration of Reserve [TAR] program and later transferred to Staff duty at the Naval Reserve

Force Management School in New Orleans, LA, and served in a number of other locations, including Orlando, FL, and Boston, MA. In August 1994, he was transferred to the Naval Reserve Center, currently located at the Naval Air Station in South Weymouth, MA, where he remains posted to this day.

Personnelman First Class Carl John Palmer, Jr., has throughout an exemplary career earned two naval Achievement Medals, the Navy Unit Commendation, two Meritorious Unit Commendations, the Navy Expeditionary Medal, four Good Conduct Medals, the Nation Defense Medal, the Armed Forces Reserve Medal, the Navy Recruiting Service Medal, the Armed Forces Reserve Medal, the Navy Recruiting Service Ribbon, the Sea Service Ribbon with Bronze Star, the Pistol Marksman Ribbon, six Naval Reserve Recruiting Gold Wreath of Excellence in Recruiting Awards and the Command Career Counseling Badge.

PN1 Palmer is a resident of Pond Eddy, NY. This community, located on the wild and scenic Delaware River, is one of the most breathtaking parts of the beautiful State of New York, and we hope that PN1 Palmer and his family will be staying in our community for a long, long time.

PN1 Palmer will be joined in retirement by his lovely wife, Virginia, also of Pond Eddy. It is often said that the spouse of a military person sacrifices as much as the person in the military. Any sacrifices endured by Virginia and their daughters, Sabrina and Kristinia, were done with uncomplaining charm and grace. PN1 Palmer's mother, Helen, is also still with us to assist Carl in enjoying his well earned retirement.

On October 3, PN1 Palmer's colleagues will be hosting a retirement ceremony to commemorate this outstanding American's 20 year contribution to the defenses of our Nation and to point with pride to a career which is an inspiration to all of us.

"UNIVERSITY SHOULD PICK BEST LOAN PROGRAM FOR ITS STUDENTS"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues the following editorial regarding competition between the direct student loan program and the Federal guaranteed student loan program which appeared in the Lincoln Journal Star on September 20, 1996. The popularity of the direct student loan program is forcing private sector lenders to offer better deals—such as a prompt-payment incentive—to students. This competition is good for lending institutions and, most importantly, for students.

[From the Lincoln Journal Star, Sept. 20, 1996]

UNIVERSITY SHOULD PICK BEST LOAN PROGRAM FOR ITS STUDENTS

* * * Changes made in federal law in 1993 allowed schools to choose a lending program in which students borrow all their money directly from the federal government. Especially at the larger universities across the United States, that is seen as the easiest way and ultimately the cheapest way to proceed.

Unfortunately, the absence of a prompt-payment feature in the federal lending package means that it is not necessarily the cheapest option for students on this campus this school year. Parents and students have reason to be concerned.

But they should not rush to the conclusion that this is another example of the government doing what the private sector should be doing and doing it worse.

Besides demonstrating a new form of public commitment to higher education, and a cheaper form than grants, a federal presence in financial aid is a form of competition for an industry that needed some competition. When there is lively marketing competition, the advantage passes back and forth between the competitors and customers can count on coming out ahead.

Before Congress authorized a direct lending program, there was no prompt payment program in the private sector. Loan origination fees were typically higher. Banks were collecting another type of middleman fee—federal payment of interest charges while students were in school—without much pressure to sweeten the deal for young borrowers.

Now, in the words of another financial aid expert on another Nebraska campus, there is "that very nice tension" between the people in charge of the government's public lending program and the people in charge in the private sector. The one has to try to match what the other one does. * * *

Any school's approach to financing a college education cannot be judged a success just because it is the cheapest for taxpayers or because it is generates the least paperwork. Whether through a government program or through partnership with private enterprise, success is only achieved when it is the cheapest choice for students.

EUROPEAN RIGHTS COURT RULES AGAINST TURKEY IN VILLAGE BURNING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SMITH of New Jersey. Mr. Speaker, on September 16, the European Court of Human Rights for the first time rules that the Government of Turkey must compensate Kurdish villagers whose houses had been destroyed by security forces. The Court found that the burning of homes violated European Human Rights Conventions. The Court also found that the Turkish Government had interfered with the applicants' right to appeal to the European Commission on Human Rights.

Mr. Speaker, presently, more than 150 cases involving more than 400 individuals have been submitted to the European Commission. These cases relate to the destruction of Kurdish villages, extra-judicial executions, disappearances, rape, and torture. Already, 56 such cases have been deemed admissible by the European Commission, and a handful have proceeded to the European Court.

Mr. Speaker, the sheer volume of cases brought against Turkey and declared admissible, as well as the circumstances surrounding each, leave little doubt that the Government of Turkey is not only conducting a violent campaign against its own citizens, but also trying to cover up its abuses with intimidation and propaganda. Earlier this year, Human Rights Watch/Helsinki released a report which documented efforts by Turkish authorities to prevent individuals from pursuing cases at the European Commission and Court. The report referenced numerous incidents in which applicants, as well as their family members and lawyers, had faced harassment, torture and murder in attempts to prevent them from pursuing their cases.

Mr. Speaker, Turkish officials often recognize the European Court's jurisdiction and the right of Turkish citizens to appeal to the Court as proof of a commitment to human rights. Yet following this first ruling against Turkey, officials have called the ruling wrong and criticized the Court as being politically biased. Following a familiar pattern in which public proclamations bear little resemblance to actuality, other international human rights commitments are similarly dismissed when implementation would bring attention to serious abuses. Last July, at the Organization for Security and Cooperation in Europe [OSCE] Parliamentary Assembly meeting in Stockholm, members of the Turkish delegation agreed to invite an assembly delegation to Turkey. One week later, Turkey's Ambassador to the OSCE in Vienna stated that his government would not cooperate in issuing such an invitation. Not only has Turkey reneged on the OSCE invitation, efforts by the International Committee of the Red Cross [ICRC] to discuss questions of access to conflict areas have also been rebuffed.

Mr. Speaker, the ruling by the European Court will surely be the first of many. The longer Turkish rulers refuse to acknowledge the true reality of the Kurdish situation the more all citizens will pay in precious blood and resources. Turkish economic and political development has been stunted by the crisis in southeast Turkey and its human dimension; 21,000 lives have been lost, 3,000 villages have been destroyed and approximately 3 million people forced from their homes in Kurdish regions by Turkish troops. And, despite what officials and their mouthpieces in the media claim, restrictions on free speech and the media persist. The U.S. Government should use every opportunity to press for real reform. If we want to fully develop a deep and lasting relationship with NATO ally Turkey, our policymakers must not continue to downplay human rights problems to advance economic and strategic interests.

TRIBUTE TO MAYOR FRANK COSTELLO

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SAXTON. Mr. Speaker, for some of us, public service is a part of our being. Those who have chosen this path give up a part of their life for the betterment of their community.

Nobody exemplifies this more than Beverly Mayor Frank Costello. For six decades, Mayor

Costello has selflessly given his time and hard work to his country and community.

Beginning with World War II and continuing through the Korean war, this Bronze Star recipient served his country in the U.S. Army, retiring in 1968 with the rank of captain.

After his heroic military service, Frank Costello turned his talent to local needs. He was elected to the Beverly City Council in 1968, a position which he still holds today. In 1972, he was successful in running for mayor and has been loyally returned to office at each election.

While this may have been enough for most, Frank Costello continued to give to his community. He has served as chairman of the Beverly Sewerage Authority since 1985, the City Planning Board for over 20 years, and the chairman of the Burlington County League of Municipalities for the last 12 years. Additionally, he has been the chairman of the Beverly City Democratic Party since 1986, and was president of the New Jersey Mayors Association from 1990 to 1996.

While we do not belong to the same political party, I know that the residents of Beverly—Republican, Democrat, and Independent—could count on Frank Costello to do what was in the best interest of the community.

On behalf of the residents of the city of Beverly, the Third Congressional District, and the people of the United States, I would like to thank Mayor Frank Costello for his dedication, loyalty, and tireless efforts in serving his community and country.

TRIBUTE TO JANINA IGIELSKA AND THE CENTRAL OF POLISH ORGANIZATIONS OF PASSAIC, CLIFTON, AND VICINITY

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MARTINI. Mr. Speaker, I rise today to honor Janina Igielska and the Central of Polish Organizations of Passaic, Clifton, and Vicinity. On Sunday, October 6, 1996, the Central of Polish Organizations will hold the 60th Annual General Casimir Pulaski Memorial Parade on Fifth Avenue in New York City. Janina Igielska is the newly selected grand marshal of the parade.

Mr. Speaker, the Central of Polish Organizations of Passaic, Clifton and Vicinity is the center for activity in the Polish-American community throughout the area. Janina Igielska was selected as this year's grand marshal for her outstanding contributions to the Polish community.

Mrs. Igielska was born in Pultusk, Poland, where she received her early education. Subsequently, she continued her education at the Szczecin University in the field of economics.

Mrs. Igielska immigrated to the United States in 1970 to pursue a career in education; where, since 1979, she has served as the principal of the Polish Supplementary School of Ada Mickiewicz.

However, Mr. Speaker, Janina Igielska's ties to the Polish community do not end with her teaching in a Polish supplementary school. She is extremely active in the Polish community outside of her occupation. She has been a member of the Polish American Youth Association of Passaic and Vicinity since 1971. In 1972, she also was a delegate to the Polish Supplementary School Council of America [PSSCA], where she has served as their executive vice president since 1974. Currently, she serves as editor of the Polish Teachers Quarterly magazine.

Through her dedication to education, Mr. Speaker, Mrs. Igielska has become a decisive leader in the Polish community. For instance, with the assistance of curator the Reverend Monsignor Jan Podgorny, Mrs. Igielska was the principal organizer of the Artistic Circle in Poland. In 1985, she was also the coorganizer of the First Polish Teachers Convention at the Alliance College in Cambridge Springs, PA.

In addition, Mr. Speaker, Mrs. Igielska is the recipient of many awards; including a medal in 1983 for her social and educational work by the Catholic University of Lublin, Poland; in 1988, a gold medal by the Polish School Association in London, England; a medal from the National Commission of Education-Polish Government Warsaw, Poland; and in 1994, a sash by the Central of Polish Organizations in Passaic for excellence in teaching.

Mr. Speaker, I wish to congratulate the Central of Polish Organizations of Passaic, Clifton and Vicinity for their 60th annual parade and Mrs. Janina Igielska for her tremendous achievements in the Polish community.

TRIBUTE TO THE CREW OF THE "U.S.S. PITTSBURGH"

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CLINGER. Mr. Speaker, today, I rise today to share with you the story of the U.S.S. *Pittsburgh* as I introduce a House resolution to commemorate the heroic acts of its crew.

In March 1945, the United States—well engaged in World War II—was preparing for an air attack on Okinawa. On the morning of March 19, Task Force 58 launched an offensive attack against Japanese ships in the Inland Sea and at Kure and Kobe.

Later that morning the U.S.S. *Franklin* became the target of an enemy plane that dropped two bombs—striking the *Franklin* and setting it ablaze. The carrier suffered extensive damage as the hanger and flight decks were struck spreading fire to the parked and armed planes on board.

With the entire ship engulfed in flames crew members were forced overboard. Subsequently, the U.S.S. *Santa Fe* and the U.S.S. *Pittsburgh* were dispatched to render aid and assistance to the impaired cruiser and its crew.

In addition to rescuing members abandoned in the water, the U.S.S. *Santa Fe* helped to fend off subsequent air attacks as the U.S.S. *Pittsburgh* approached the flaming cruiser to attach a towline. With the towline in place, and the *Franklin* dead in the water, the *Pittsburgh* engaged in towing the *Franklin* working against an easterly, blowing wind. As the cruiser picked up speed to 6 knots, enemy attacks were still looming.

Nearly 24 hours later, the *Franklin* was able to regain steering control and gradually build up speed to clear the *Pittsburgh* to operate, albeit slowly, on its own accord.

Mr. Speaker, this thumbnail sketch offers a mere glimpse of the tragedy and suffering that occurred as a result of the attack on the morning of March 19, 1945. The outstanding performance and the remarkable and concerted efforts of the three crews saved and the capital ship of the task force—which later earned the distinction of being the only capital ship in naval history that was towed to safety after being disabled in battle.

While the *Franklin* tragically suffered 724 casualties and 265 injuries, the heroic acts of crew members prevented another 300 deaths aboard the *Franklin*. As history unfolded, the U.S.S. *Franklin* has become one of the most decorated crews in U.S. naval history. And deservingly, the U.S.S. *Santa Fe* received a Navy unit commendation for its part in assisting the failing cruiser.

So today, Mr. Speaker, I will introduce a resolution in the House of Representatives to recognize and commemorate the outstanding feast of seamanship performed by the crew of the U.S.S. *Pittsburgh* who—to date—has never been collectively honored for their role in the rescue effort.

Having served in the U.S. Navy, I can attest to the fact that one does not make the commitment to defend this great Nation for the prospects of fame or glory. The consequences of engaging in battle, as the crew members of Task Force 58 learned, are dire and real.

Mr. Speaker, I believe it's only fitting that we take this opportunity, some 51 years later, to solemnly recall the tragic events off the coast of Japan and to recognize the crew of the U.S.S. *Pittsburgh* for their contribution in assisting the U.S.S. *Franklin*, and to U.S. naval history.

RETIREMENT OF BARBARA REPKO

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a dedicated woman from my District in Pennsylvania, Mrs. Barbara Repko. I am pleased to have been asked to participate in a surprise recognition ceremony in honor of her retirement.

Mrs. Repko is retiring after serving for 20 years as the dedicated manager of the Berwick Senior Citizens Center. Although most famously known for its winning high school football team, Mrs. Repko brings another type of recognition to this beautiful borough on the Susquehanna River.

Mr. Speaker, Barbara Repko personifies Pennsylvania values in her caring dedication to her profession. Her diligence on behalf of area seniors is legendary. For 20 years Barbara Repko has run fund-raising drives to benefit the center, and has gone door to door to area businesses in search of their support. This beautiful modern center owes its existence to this outstanding woman and her husband Bill.

Her dedication to the center extends beyond to a financial commitment to area seniors. Seven years ago Bill and Barbara Repko were so dedicated to providing quality care and services to Berwick area seniors that they provided a loan to the Board of Directors of the center so that the center could purchase its own building. This combined with donations of time, additional money and ideas allows this beautiful center to today provide support services to hundreds of local senior citizens.

During Barbara's leadership the facility gained a new kitchen, new roof, air-conditioning and an exercise room with brand new equipment for the well-being of the seniors. The center is one of the finest in the State of Pennsylvania due to Barbara's dedication, forward thinking and financial commitment.

Mr. Speaker, it is not often that I have the honor to pay tribute to such a selfless, caring individual. This woman deserves our recognition and sincere appreciation and I am extremely proud to bring her good deeds to the attention of my colleagues. I know that Mrs. Repko's greatest reward is the love, respect and gratitude of those whose lives she has touched over the last twenty years. I send my very best wishes to her for a long, happy and productive retirement.

RECOGNIZING GE VALLECITOS NUCLEAR CENTER

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BAKER of California. Mr. Speaker, in an era in which energy resources are increasingly critical to our society, it is good to know that dedicated scientists and researchers are working to make sure that safe, affordable, and environmentally friendly energy will be available for years to come. Many of these men and women live and work in the East Bay region of the San Francisco area, serving at one our national laboratories or General Electric's Vallecitos Nuclear Center.

Forty years ago, the men and women of General Electric [GE] opened a new plant in Pleasanton, CA, a beautiful community in the heart of my congressional district. GE opened the facility to pioneer the commercial development of atomic energy. Through its Vallecitos boiling water reactor, GE has brought safe and efficient electric power to eleven nations. Later this year, GE will witness another proud moment when the Tokyo Power Co. advanced boiling water reactor—supplied by GE and its associates—becomes available for commercial use.

The Vallecitos Nuclear Center [VNC] in Pleasanton is the hub of GE's nuclear energy research. As the site of the Nation's first privately financed nuclear generating facility, GE VNC has compiled an outstanding record of safety and service. Already a national historic site for its many contributions to the development of commercial nuclear power, the laboratories and test facilities of the VNC are helping GE stay on the leading edge of groundbreaking research.

None of these achievements would be possible without the effort, expertise, and commitment of the men and women who comprise the GE family. Today it is my pleasure to urge my colleagues to join me in thanking the GE VNC organization, its management, staff, researchers, and all its workers, for their contributions to America's energy future. Innovation, leadership, and possibility are alive and well at GE VNC, and I applaud everyone at the VNC for their outstanding work for our country and our world.

TRIBUTE TO MR. AND MRS. CARL L. KILGUS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. SPENCE. Mr. Speaker, I rise to recognize two outstanding South Carolinians, Carl and Betty Kilgus, of Bamberg. The Kilguses recently retired from the printing business that they founded on December 1, 1956.

During the 40 years that the Kilgus Printing Co. has been in business, Carl and Betty have worked together to build their company into a firm that employs over 45 employees, offering a variety of services. The Kilgus Printing Co. publishes three weekly newspapers: North Trade Journal, the Advertiser-Herald, and the Santee Striper, which have a wide circulation in our State. Also, the company has the distinction of, at one time, being the largest bulk mailer in the Columbia Sectional Center of the U.S. Postal Service, based on the volume of circulars for grocery store chains that it printed and mailed for stores throughout South Carolina, North Carolina, and Georgia.

The Kilguses have devoted much of their lives to improving their community. Carl is the chairman of the Bamberg County Economic Development Commission, as well as a member of the Bamberg Board of Public Works Commission, the Thoroughbred Country Tourism District, and the Bamberg City Development Association. Betty has devoted many years of service to the Bamberg County Board of Registration and Elections, and is currently its chairman. They are also active members of the First Baptist Church of Bamberg.

Mr. Speaker, Carl and Betty Kilgus are dedicated leaders, whose lives have been marked by hard work and achievement. For many years, it was my honor to represent them in the House of Representatives. Although they have retired from their positions at the company that they worked so diligently to establish, they will certainly continue to devote themselves to the needs of the citizens of Bamberg County, and surrounding areas. I would like to take this opportunity to commend Carl and Betty Kilgus on the numerous contributions that they have made to the Palmetto State, and to wish them much happiness in their retirement.

TRIBUTE TO LYNN ROGERS AND SALLY STEVENSON FOR THEIR SERVICE TO DELAWARE

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CASTLE. Mr. Speaker, I rise today to commend the fine work and contributions of two outstanding, dedicated, and caring Delawareans—Lynn Rogers, president of the Delaware Volunteer Firemen's Association and Sally Stevenson, president of the Delaware Volunteer Firemen's Association Ladies Auxiliary.

Delaware fire companies are comprised of outstanding, dedicated, and caring men and women who give of their time and talents to help prevent or battle fires and perform emergency medical services for our citizens. Because of the leadership and teamwork of Lynn and Sally, Delaware fire and emergency medical services have remained a vital and integral part of our community.

I salute Lynn and Sally for their exemplary record of public and community service. They are truly an inspiration for all of us. Their commitment and dedication to the cause of volunteer firefighters will find a permanent place in the Delaware volunteer fire service history.

Mr. Speaker, just recently the Delaware Volunteer Fireman's Association and Ladies Auxiliary celebrated its 76th anniversary of leadership and service to the towns and communities of Delaware. It is important that this fine, dedicated organization continue to be able to recruit and retain young men and women who are committed to this outstanding form of public service. The support for the Delaware Volunteer Fireman's Association and Ladies Auxiliary is strong and the tradition of service is solid, I hope that they realize how deeply their efforts are appreciated.

ESTABLISHING A NATIONAL COMPETITIVE ADVANTAGE THROUGH DYNAMIC COMPETITION

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. HINCHEY. Mr. Speaker, professors Nathan Mao and Winstan Yang have called to my attention an interesting discussion of the Republic of China's economic competitiveness written by ROC Vice President/Premier Lien Chang. Vice President Lien's discussion takes the form of a review of Michael Porter's book, "The Competitive Advantage of Nations." He found that the book has much to say about Taiwan's future role in the global economy. I hereby ask permission that Vice President/Premier's review of "Establishing a National Competitive Advantage Through Dynamic Competition" be printed in the RECORD.

ESTABLISHING A NATIONAL COMPETITIVE ADVANTAGE THROUGH DYNAMIC COMPETITION

(By Lien Chan, Vice-President/Premier, R.O.C.)

The nearly 600,000-word book, "The Competitive Advantage of Nations," by Harvard

University professor Michael E. Porter is an examplar of works on the leading edge of contemporary academic thought that can influence current government policy.

A book is considered a classic if its author raises profound questions and offers penetrating insights that enlighten the reader. One may disagree with some of its theses but must give serious consideration to their implications.

At this juncture when the whole country is vigorously working toward attaining supreme global competitiveness, reading Porter's epochal masterwork, "The Competitive Advantage of Nations," greatly bolsters our confidence and, during the process of government policymaking, helps us confront the following major questions:

What is a national competitive advantage?

What role should government play vis-a-vis industry regarding international competition?

How should government and industry work together to create a national competitive advantage?

How can industry seek an industrial competitive advantage?

What efforts should be made with the private sector to cultivate a healthy, aggressive, and full competitive macroenvironment?

Reading this book has made me keenly aware that the pattern of economic competition has changed with the times.

Traditionally, competition was static, and success or failure hinged on production factors. Modern competition is dynamic, and new technologies, new products, new market demarcations, new production processes, and new management concepts are constantly emerging to change and even undermine a national and industrial competitive advantage.

This book also reminds me of some of the theses proposed many years ago by Bruce R. Scott, also a professor at Harvard. After comparing the United States, France, and some developing nations, including the Republic of China, Scott formulated his "dynamics of comparative interest." He maintained that some postwar countries, such as Japan and the Republic of China, have advanced and prospered rapidly because they were able to transcend the concept of static comparative interest and break through their resource limitations through scientific and technological innovation, enlarging the scale of production, and actively expanding foreign trade. Scott particularly cited Japan as an example. The Japanese understand that comparative interest can be created and renewed through the enhancement of skills, capital, and the workforce. In addition, an environment conducive to economic development can be established through institutional reform.

These experiences confirm that in the midst of modern dynamic competition, it is paramount to raise national, social, industrial, and private-sector competitiveness.

DIAMOND SYSTEM

Over the past dozen years, Porter has published three books on "competitive advantage." The first two focused on industry, while this one concerns nations. This change is quite meaningful. Porter discovered that a nation's macroenvironment crucially affects industrial competitiveness; it can either help or hinder industrial development. He astutely pointed out that the relationship between national and industrial competitiveness directly correlates with how the nation stimulates industrial improvement and innovation.

After spending three years comparing the industrial development of ten nations (the United States, Germany, Sweden, Switzerland, Denmark, Italy, the United Kingdom, Japan, South Korea, and Singapore), Porter proposed his well-known Diamond Theory.

He argued that two sets of determinants affect the industrial competitive advantage and, despite the rushing tide of strong globalization, the importance of these factors in determining national competitive advantage has not diminished, but in fact has become more definite.

Among the first set of fundamental determinants are:

Factors of production, including human resources, physical resources, knowledge resources, capital resources, and infrastructure;

Demand conditions;

Related and supporting industries; and

Firm strategy, structure, and rivalry.

The second set comprises two additional variables:

Chance; and

Government.

Porter described the rhombic relationship formed by the four determinants in the first set as a national "diamond." He emphasized that a country cannot rely on unique competitive advantages such as low-cost labor. Such reliance is risky because it can be replaced by even cheaper labor in less developed nations. When this situation occurs, the diamond may be said to be in "static disequilibrium," and the competitive advantage cannot be maintained. Accordingly, Porter points out, a nation's competitive advantage should be firmly rooted in a durable diamond configuration. That is, both set of determinants should develop in relation and coordination with one another, stimulating and upgrading each other in the process. This kind of national diamond can be said to be in a state of dynamic development. It is the optimal combination for continual national progress.

Professor Porter also enumerated four stages of national competitive development:

a factor-driven stage;

an investment-driven stage;

an innovation-driven stage; and

a wealth-driven stage.

In order to move from one stage to the next, the government and private sector must carry out a complete metamorphosis of industrial infrastructure, international distribution the financial system, technological standards, and conventional ways of thinking. On top of this, I personally believe that even more profund consideration should be given to the cultural ethics and values behind the initiating and sustaining forces for the creation and distribution of wealth and value.

In their research on the culture of capitalism British scholar Charles Hampden-Turner and Dutch scholar Alfons Trompenaars once declared that different cultures engender different cultural ethics and values, and thereby diverse ways of creating and distributing wealth. Thus, to be able to comprehend the success of similar systems adopted by different countries, one must have a profound understanding of the cultural ethics and social values of these nations. This is a point all of us should consider and study further. However, in the transitional stage of national development, it is indisputable that the government should act as healthy promoter and courageous challenger. Porter has said with great profundity that the world today needs great leaders and great executives rather than great housekeepers.

NATIONAL REINVENTION PROJECT

According to Porter's four stages of national competitive development, Taiwan may be between the second, or investment-driven; stage and the third, or innovation-driven, stage. In promoting national competitiveness at this time, we hope to build our base on the strengths of the private sector, and thereby push forward comprehensive reform and accomplish the goal of national modernization. However, after comparing several countries for the growth or diminution of their national competitiveness, Professor Porter has proposed a concept mirroring the situation that deserves our vigilance.

Professor Porter believes that in the first three stages of economic development, national competitiveness grows continuously, while at the forth stage, or turning point, the economy may decline. After entering the wealth-driven stage, domestic competitive activities diminish; management strategies change from aggressive to conservative; industrial re-investment willingness decreases; major businesses manipulate government protection policies to insulate themselves from their competitors. The first generation of entrepreneurs, who became rich from scratch die out and are replaced by a new generation used to operating within the system. Personnel do not work hard due to their high incomes. Labor-management relations stiffen as each party tries to retain its own vested interests. At this stage, people are far more interested in other professional fields rather than industry. The educational concept of pragmatism gradually disappears. The negligence of education by society and family results in a deterioration of educational standards. The proportion of investment in the factors of production is greatly reduced.

Hovever, investment in other areas increases. The government tends to heavily tax rich people, further reducing their willingness to invest. Business capital exceeds internal deeds, yet such businesses are not willing to risk investment in setting up new businesses, but instead change their goals to merging with or buying up other businesses. Porter states that wealth-driven stage will lead to economic recession since existing wealth is not sufficient to support the needs of the economy. The ambitions of investors, managers, and people change, innovation based on sustained investment disappears, and economic improvement is sluggish. National economic goals during this stage differ from before. Emphasis is placed on pursuing social welfare, but may people overlook the fact that social welfare is based on continual economic progress. I feel that these alarming observations are very meaningful.

Raising national competitiveness is for us the core of our reform, and is in line with professor Porter's ideas. However, we have not just established a national diamond of "dynamic development," we have in fact instituted a project of national reinvention from a much broader angle. This task of raising national competitiveness is unique in concept and action, and deserves further elaboration for those people concerned about national competitiveness. First of all, it is global. Today, we are a member of the global village and neither can nor will exclude ourselves from international competition. Therefore, we must fully join in the globalization trend. There are many yard sticks and authoritative agencies for assessing international competitiveness, such as the International Institute for Management Development in Switzerland, and the World Economic Forum. They differ in the categories they evaluate and rank, and many

factors tend to be subjective, but this is no excuse for our not pursuing competitiveness. If we want to compete in this world, we need to keep an eye on these evaluation factors, make judgments according to our own need, and decide on which evaluation categories we shall strive for. This way we can avoid being subjective and meet out real needs.

Second, it is comprehensive. When we talk of competitive advantage, many people immediately associate it with such economic meanings as an increase in national financial might or a boots in productive power.

Undoubtedly, these factors constitute a major portion of what national competitive advantage means. However, we believe that competitive advantage means more than just economic issues; education, public safety, the quality of life, and technical might are all part of the concept. In particular, at this present stage.

CLINTON ADMINISTRATION CLOSES COURTHOUSE DOOR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. YOUNG of Alaska. Mr. Speaker, I rise to bring to your attention a terrible injustice. The victims of this injustice are hardworking, taxpaying American citizens who are being deprived of basic rights guaranteed to each citizen under the Constitution. Those rights are the right to due process of law and the right to equal protection of the law. Due process guarantees that when the Government might cause us harm, we should have a right to be heard. Equal protection requires equal treatment before the law.

If the Clinton administration has it's ways, our citizens will be gagged and denied the right to be heard when they want to complain about what their Government is doing to them under the guise of protecting endangered or threatened species.

The Supreme Court has agreed to hear a case filed by two ranchers in Oregon asserting that Secretary Babbitt violated the Endangered Species Act [ESA] when he tried to reduce the amount of water available to those ranchers for their cattle and crops. They alleged that he disobeyed several requirements of the ESA that would have protected their economic interests. However, they never got their day in court. Mr. Babbitt's lawyers asked the judge to throw out their claim without a hearing. His lawyers claim that people are not protected by the Endangered Species Act so they have no right to complain when the Secretary violates the act and therefore, takes away their ability to support themselves.

The lawyers argued that people's economic, social or recreational concerns are not within the "zone of interest" of the ESA and therefore, they cannot sue to have the Court decide if the Secretary had violated the law.

The judge threw the ranchers out of court, but they appealed to the Ninth Circuit Court of Appeal. Once again. Secretary Babbitt's attorneys argued that the ranchers could not sue to have the Secretary's actions reviewed by the court, because they have no protections under the ESA. This is called the zone of interest test. The ninth circuit in *Bennett* v. *Plent*, 63 F. 3d 915 (1995) agreed with Secretary Babbitt's lawyers and once again threw these ranchers out of court ruling that they were not within ESA's zone of interest. The ranchers have now appealed to the Supreme Court. However, Secretary Babbitt's attorneys are now worried about the political consequences of having everyday people denied access to judicial review of Secretary Babbitt's decisions, so they have quit arguing that these ranchers are not protected by the ESA. Instead, they are still arguing that these ranchers should not be allowed to sue but are basing their arguments on other legal technicalities, such as claiming that the ranchers sued the wrong Government agency within Secretary Babbitt's vast Department. At the Supreme Court level the case is known as Bennett versus Spear.

If the Supreme Court decides the case the way the lawyers have asked them to, it will leave the zone of interest test in place in all courts within the ninth circuit's jurisdiction. This means that people living in California, Oregon, Washington, Idaho, Alaska, Hawaii, Guam, Nevada, Arizona, and Montana will not be able to sue under the ESA to have a court review illegal actions by Secretary Babbitt. Since the courts in other areas of the country are not bound by the Ninth Circuit Court's decision, citizens in those areas will not have to pass the zone of interest test to have access to the courts. However, if the Supreme Court agrees with the ninth circuits decision, this zone of interest test will become the law of the land and will have broad legal implications, not just for the interpretation of the Endangered Species Act, but for a variety of other environmental statutes as well.

Putting it in layman's language—Secretary Babbitt's lawyers have opened the door of the courthouse to the environmental lawyers, given them millions of dollars of taxpayers money to pay for their lawsuits, and invited them to keep coming back. This has spawned a cottage industry for so-called environmentalists. Although the Federal Government subsidizes hundreds of environmentalist's lawsuits, they have slammed the door of the courthouse to average citizens just trying to protect themselves from abuses by Secretary Babbitt's Department. I have attached a list of cases filed under the ESA and the attorney's fees received by the lawyers in each of these cases. This list was supplied to the Committee on Resources by the Department of Justice.

To say this is unfair is a gross understatement. It is unfair in the extreme and in addition, it is resulting in unreasonable and unbalanced public policy. It is no secret that Federal judges are playing a key role in implementing the Endangered Species Act. When Secretary Babbitt adopts new rules, he is required by law to receive public comment from any member of the public. When Federal judges interpret the law, they can exclude the general public and allow only a limited viewpoint to be heard. It is no wonder that we end up with judge-made law that is so unbalanced and unreasonable in so many cases.

Not all judges would turn away those citizens who wish to sue to protect their economic, social, or recreational interest. Judge Rosenbaum of the U.S. District Court in Minnesota had this to say when the lawyers representing the Clinton administration asked him to dismiss a suit filed by a group of snowmobilers. He scolded the Government because they could not identify a single person who would have been qualified to complain about the Government's overprotection of endangered species.

Judge Rosenbaum said "the Court is unwilling to adopt the view that the Fish and Wildlife Service is unrestrained if it cloaks any of its acts in the laudable robe of endangered and threatened species protection. This is a form of totalitarian virtue—a concept for which no precedent has been advanced and which is foreign to the rule of law."

He apparently does not agree with the Secretary Babbitt's view that under the law the Federal Government can never go too far in protecting endangered species. In briefs to the Supreme Court the Government says that no one can sue them if they go too far under the ESA.

According to the Secretary Babbitt's lawyers, if the Government violates the constitutional and legal rights of citizens, if it fails to follow the requirements in the Endangered Species Act designed to protect citizens right's, there is no citizen who can sue to stop such Government overreaching.

That is an incredible statement by our Justice Department lawyers sworn to uphold our Constitution and our Bill of Rights.

I agree with Judge Rosenbaum that allowing only professional environmentalists to use the ESA to further their agenda, whatever that agenda may be, is foreign to the principles of fairness and due process that we hold so dear.

We need to let citizens who are directly impacted by the ESA into the courthouse so that the courts can hear all the facts, all the evidence, and let the truth guide their decisions. When only one side is allowed to present the facts, the truth becomes the victim of injustice.

Case name	Suit number	District	Attorney fees paid
1. Biodiversity Legal Foundation v. Babbitt	95–601	Colorado	$1,000.00
2. Biodiversity Legal Foundation v. Babbitt	95–382	Colorado	8,000.00
3. Restore: The North Woods v. Babbitt	95–37	New Hampshire	5,400.00
4. Biodiversity Legal Foundation v. Babbitt	95–1815	Colorado	3,500.00
5. Biodiversity Legal Foundation v. Babbitt	95–816	Colorado	500.00
6. The Bay Institute of San Francisco, et al. v. Babbitt	94–0265	California, East	5,000.00
7. National Audubon Society v. Babbitt, et al.	94–0105	California, South	7,540.61
8. Friends of the Wild Swan, Inc., Alliance for the Wild Rockies, inc., et al. v. Babbitt	94–0246	District of Columbia	4,500.00
9. Southern Utah Wilderness Alliance v. Morgenweck.	94–717	Colorado	4,200.00
10. Environmental Defense Center v. Babbitt.	94–0743	California, Central	4,074.75

Case name	Suit number	District	Attorney fees paid
11.. Biodiversity Legal Foundation, et al. v. Babbitt	94–1086	Colorado	1,408.19
12. Biodiversity Legal Foundation v. Babbitt	94–0920	District of Columbia	5,000.00
13. Biodiversity Legal Foundation v. Babbitt	94–0920	District of Columbia	3,815.00
14. Greater Gila Biodiversity Project v. USFWS	94–0288	Arizona	2,048.91
15. Southwest Center for Biological Diversity, et al. v. USFWS	94–0696	Arizona	1,665.00
16. Southwest Center for Biological Diversity, et al. v. USFWS	94–0739	Arizona	1,000.00
17. Environmental Defense Center v. Babbitt	94–0788	California, Central	3,815.00
18. Oregon Natural Resources Council v. Babbitt	94–666	Oregon	4,000.00
19. Mountain Lion Fountain v. Babbitt	94–1165	California, East	6,500.00
20. Dr. Robin Silver, et al. v. Babbitt	94–0337	Arizona	4,000.00
21. Dr. Robin Silver, et al. v. Babbitt	94–0337	Arizona	102,418.86
22. Southwest Center for Biological Diversity v. Babbitt	94–1034	Arizona	5,145.00
23. The Biodiversity Legal Foundation v. Babbitt	94–02441	District of Columbia	4,000.00
24. Idaho Conservation League v. Babbitt	94–0351	Idaho	5,000.00
25. Northwest Coalition for Alternatives to Pesticides v. Babbitt	94–6339	Oregon	10,500.00
26. Southwest Center for Biological Diversity v. Babbitt	94–1946	Arizona	1,971.01
27. Southwest Center for Biological Diversity v. Babbitt	94–2036	Arizona	40,000.00
28. Native Plant Society of Oregon v. U.S. DOI	93–180	Oregon	13,046.19
29. National Audubon Society et al. v. Babbitt et al..	93–1152	District of Columbia	22,500.00
30. Idaho Dept. of Fish and Game v. National Marine Fisheries Service	93–1603	Oregon	8,405.06
31. Oregon Natural Resources Council v. Dept. of Commerce	93–293	Oregon	16,200.00
32. Clemmys Karmorata v. USFWS	93–6135	Oregon	2,522.30
33. Environmental Defense Center v. Bruce Babbitt	93–1847	California, Central	4,700.00
34. Environmental Defense Center v. Bruce Babbitt	93–1848	California, Central	4,700.00
35. Environmental Defense Center v. Babbitt	93–3379	California, Central	4,300.00
36. Desert Tortoise, et al. v. Lujan	93–0114	California, North	69,000.00
37. Southern Utah Wilderness Alliance v. Bruce Babbitt	93–2376	Colorado	8,500.00
38. Greater Yellowstone Coalition, et al. v. F. Dale Robertson (Chief, USFWS)	93–1495	District of Columbia	32,750.00
39. Natural Resources Defense Council, et al. v. Bruce Babbitt, Sec. DOI	93–0301	California, North	262,096.76
40. Sierra Club, et al. v. Bruce Babbitt, et al.	93–1717	California, South	11,368.76
41. Greater Gila Biodiversity Project v. USFWS	93–1913	Arizona	11,000.00
42. Sierra Club, et al. v. David Garber, et al.	93–069	Montana	55,000.00
43. Bay Institute of San Francisco v. Lujan	92–2132	California, East	60,000.00
44. Pacific Rivers Council v. Thomas	92–1322	Oregon	165,000.00
45. Colorado Wildlife Federation v. Turner	92–884	Colorado	31,351.90
46. Colorado Wildlife Federation v. Turner	92–884	Colorado	5,000.00
47. Environmental Defense Center v. Lujan	92–6082	California, Central	7,500.00
48. Idaho Conservation League v. Manuel Lujan, et al.	92–0260	Idaho	21,166.00
49. Canadian Lynx, Greater Ecosystem Alliance v. Lujan	21–1269	Washington, West	2,000.00
50. Canadian Lynx, Greater Ecosystem Alliance v. Lujan	92–1269	Washington, West	9,500.00
51. Friends of Walker Creek Wetlands v. Dept. of the Interior	92–1626	Oregon	12,000.00
52. Idaho Conservation League, et al. v. Lujan	92–0406	Idaho	8,000.00
53. Fund for Animals v. Manuel Lujan, et al.	92–800	District of Columbia	67,500.00
54. National Audubon Society v. Lujan	92–209	California, South	7,348.75
55. Wendell Wood, et al. v. Manuel Lujan, et al.	91–6496	Oregon	14,547.05
56. Wendell Wood, et al. v. Manuel Lujan, et al.	91–6496	Oregon	550.00
57. California Native Plant Society v. Manuel Lujan, Jr.	91–0038	California, East	16,678.25
58. Earth Island Institute, et al. v. Manuel Lujan, Jr.	91–6015	Oregon	32,338.70
59. The Fund for Animals ein., et al. v. Turner	91–2201	District of Columbia	36,000.00
60. West Snowy Plover v. Lujan	91–1421	Washington, West	7,710.92
61. Edward Wilkinson Mudd Jr. v. William Reilly, Admin., EPA	91–1392	Alabama, North	39,000.00
62. Hawaiian Crow v. Manuel Lujan	91–00191	Hawaii	195,000.00
63. Sierra Club v. Lujan	91–069	Texas, West	666,666.67
64. Sierra Club v. Lujan	91–069	Texas, West	666,666.67
65. Sierra Club v. Lujan	91–069	Texas, West	666,666.66
66. Sierra Club v. Lujan	91–069	Texas, West	1,550,000.00
67. Marbled Murrelet, et al. v. Manuel Lujan	91–522	Washington, West	43,519.49
68. Marbled Murrelet, et al. v. Manuel Lujan	91–522	Washington, West	17,589.98
69. Dioxin/Organichlorine Center and Columbia River United v. Dana Rasmussen	91–1442	Washington, West	61,500.00
70. Colorado Envtl. Coalition v. J. Turner	91–1765	Colorado	5,168.40
71. Florida Key Deer, et al. v. Robert H. Morris	90–10037	Florida, South	130,000.00
72. Conservation Council for Hawaii, et al. v. Manuel Lujan and John F. Turner	89–00953	Hawaii	44,635.25
73. National Wildlife Federation, et al. v. Robert Mosbacher, Sec. of Commerce	89–2089	District of Columbia	42,500.00
74. Sierra Club Legal Defense Fund v. Manuel Lujan, Jr., Sec. of Interior, et al.	89–1140	District of Columbia	9,000.00
75. Sierra Club, et al. v. James A. Baker, et al	89–3005	District of Columbia	18,583.72
76. Resources Limited Inc., et al. v. F. Dale Robertson, et al.	89–41	Montana	90,000.00
			47,000.00
77. Environmental Defense Fund v. Lujan	89–2034	District of Columbia	2,237.50
78. Silver Rice Rat, et al. v. Manuel Lujan	89–3409	District of Columbia	19,500.00
79. Northern Spotted Owl, et al. v. Donald Hodel, et al.	88–573	Washington, West	56,718.00
80. World Wildlife Fund v. Donald P. Hodel, et al.	88–573		56,000.00
81. Sierra Club and League for Coastal Protection v. John Marsh, et al.	86–1942	California, South	44,774.16
82. Greenpeace v. Baldrige	86–0129	Hawaii	88,794.01
83. Sierra Club, et al. v. Richard Lyng	85–69	Texas, East	149,647.50
84. Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California, East	518,000.00
85. Natural Resources Defense Council v. Donald Hodel (Kesterson)	85–1214	California, East	57,000.00
86. Natl. Wildlife Foundation, et al. v. Endangered Species Committee, et al.	79–1851	District of Columbia	20,000.00
87. Defenders of Wildlife v. Thomas	Strychnine	Minnesota	122,500.00

H.R. 4138, THE HYDROGEN FUTURE ACT OF 1996

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. WALKER. Mr. Speaker, I ask unanimous consent to bring before the House H.R. 4138, the Hydrogen Future Act of 1996, for its immediate consideration.

Mr. BROWN and I are introducing H.R. 4138 to focus the U.S. Department of Energy's research and development of hydrogen as a fuel. Last year, with support on both sides of the aisle, a bill similar to this one, H.R. 655, passed the House with an overwhelming majority on May 2, 1995.

H.R. 4138, incorporates some changes made to the earlier bill to accommodate interests of Members of the Senate. These changes have been approved by the chairman and ranking members of the committees of jurisdiction.

I would like to thank the ranking member of the House Science Committee, Mr. BROWN, for his support in cosponsoring this bill with me. Mr. BROWN has long been a supporter of hydrogen research and development, and I have appreciated his efforts in this area.

I would also like to thank the Committee on Government Reform and Oversight for its cooperation on a provision in this bill over which it has jurisdiction.

Mr. Speaker, H.R. 4138 provides the legislative authority necessary to continue the research and development of hydrogen as fuel into the 21st century.

Hydrogen is essentially a nonpolluting, environmentally friendly, renewable resource that is one of the answers to our future energy needs.

Under H.R. 4138, the U.S. Department of Energy is directed to continue and expand its research and development of hydrogen as a fuel cooperatively with the private sector under a peer reviewed competitive process. H.R. 4138 slowly increases funding for R&D over a period of 5 years to a level recommended by the Department of Energy's hydrogen technical advisory panel. This increase, which will occur at a slower pace than recommended, will help assure the best utilization of the increase while allowing budget priorities to be decided under a balanced plan.

The Hydrogen Future Act, gives the House the opportunity to send to the Senate, and then the President's desk, a bill which is good for the environment, good for the economy, good for our health, and good for our future.

I hope my colleagues will join me in voting for passage of H.R. 4138, the Hydrogen Future Act of 1996.

ANTHONY ENGLISH HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I am pleased to rise today to congratulate Mr. Tony English on his 25th anniversary with the Catholic Youth Center in Wilkes-Barre, PA. The community will gather to honor Tony on October 20, 1996, and I am honored to have been asked to participate in this event.

Having attended local schools, Tony began with the CYC as a volunteer fundraiser in 1962. After starting with the CYC he also joined the membership committee and the capital improvement drive committee. In 1966, Tony was hired as assistant to the athletic director. Under his direction, the CYC basketball league was expanded and the diocesan boys basketball tournament was initiated. He held one of the first area karate tournaments and founded the Junior Basketball Officials Club and was its first advisor. This club trained young people in officiating basketball games.

In 1967, Tony left the CYC to become the program director of the Wilkes-Barre City Recreation Board for 1 year. He then became superintendent of recreation for the city, supervising 23 playgrounds and 4 swimming pools.

Tony found the position challenging as he supervised more than 300 students in leadership positions.

In 1971 Tony left the superintendent position to return to the CYC as its executive director. For the next 25 years, Tony worked to expand the center's many services. He helped acquire land from Wilkes-Barre to build outdoor basketball and tennis courts. The center obtained money through the National Park Service to open a health center. The center went on to develop a firstrate child care and senior citizen program. The center's programs now benefit everyone including infants to seniors. Under Tony's leadership, the center has also been a strong antidrug policy supporter and has numerous antidrug programs in operation today.

Mr. Speaker, Tony English is a valuable member of the Wyoming Valley community. His youth programs have set the standard for excellence in our area. The CYC has grown and prospered under his able leadership. I am pleased to congratulate Tony on this milestone in his career and send my best wishes for continued success.

RISE 'N' STRIDE WALKING CLUB 10TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MURTHA. Mr. Speaker, it's a pleasure for me to congratulate the Richland Mall Rise 'n' Stride Walking Club on its 10th anniversary.

Americans are living longer, healthier, more active lives and much of it can be traced to these types of clubs. Gathering early each morning, the group, some of whose members are in their nineties, sets a brisk pace. The club stresses the benefits of walking in reducing the risks of heart disease, high blood pressure, diabetes, high cholesterol, and osteoporosis.

The Rise 'n' Stride Club also has started a Walker of the Month Program with plaques on display at the Richland Mall. I believe this kind of recognition of personal achievement will encourage more Americans to get out and walk for their health.

In addition, the club serves the community by organizing fund drives that have donated over $3,000 in support of various community activities.

Maybe I feel so strongly about this club because my wife, Joyce, and I are regular walkers who have benefited from this low-stress form of exercise. It is clubs like Rise 'n' Stride that are helping to change attitudes toward fitness and provide incentive for people of all ages to get out and do something positive for their health.

I congratulate the Rise 'n' Stride Club on its 10th anniversary, its community involvement, and its dedication to improving its members' health and well-being.

GERMAN-AMERICAN DAY IS OCTOBER 6, 1996

HON. MICHAEL PATRICK FLANAGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FLANAGAN. Mr. Speaker, the annual anniversary of German-American Day is on October 6, 1996. Due to the fact that this date falls on a Sunday this year, Chicago's National German-American Day will be celebrated on Friday, October 4, 1996, under the auspices of the Steuben Society of America, Chicago unit. This annual ceremony is held so that all German-Americans of the Chicago area can honor not only the illustrious General Von Steuben, but all German-Americans who have fought, served, and worked to make the United States the greatest country in the world. Today, more than 57 million Americans trace at least part of their ancestry to Germany and many of those are residents of the great city of Chicago, which has long had a most active and vibrant German-American community.

Since the arrival of the first German immigrants in Philadelphia, PA, on October 6, 1683, German-Americans have much distinguished themselves by their loyalty to their new homeland and their contributions to the cultural and economic life of the United States of America. German-Americans have faithfully supported and bolstered America's democratic principles. They have staunchly and steadfastly committed themselves to the advocacy of freedom for all people throughout the globe.

German-Americans have long been active participants in our society. They are part of the very foundation that has made the United States of America what it is today. Their example makes them most deserving of an annual German-American Day.

We in Congress honor and acknowledge all German-Americans and what they have done for our country and for the world. We in Congress call upon all citizens of the United States of America to acknowledge the exemplary services and contributions of our German-American citizens and to celebrate German-American Day on October 6.

TRIBUTE TO GREG MORRIS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DIXON. Mr. Speaker, the entertainment world lost a gifted and beloved actor on August 27, 1996, with the passing of Greg Morris. Morris, who would have turned 62 on Friday, is best known to all of us as the electronics genius who helped his fellow agents thwart the activities of unscrupulous governments in the immensely popular 1960's television series, "Mission Impossible."

Greg Morris was born in Cleveland, OH on September 27, 1934. He entered the University of Iowa in 1958 to play basketball; however, his basketball career was short-lived. Greg studied communications and theater arts and it was from this curricula that his love for the theater and acting would grow. Although he did not complete his studies at the University of Iowa, Greg expanded his skills in the arts by writing a jazz column for the Daily Iowan and producing a radio program on WSUI, "Tea Time."

From Iowa, Greg moved northwest to Seattle, where he landed his first professional roles in a few minor stage productions. His appetite for acting further whetted, he decided in the early 1960's to try his luck in Hollywood. Those of us who remember Hollywood during that period, can appreciate how difficult it must have been for Greg to strike out for the entertainment capital of the world. Although there were many gifted African-American actors looking for work in the television and film industry, only a few, such as Morris, Bill Cosby, Brock Peters, and Diahann Carroll were lucky enough to land roles that did not mirror the stereotypical roles historically given to African-American actors.

Like his African-American acting peers, however, Greg was special and his superior acting talents landed him roles in such television classics as "The Dick Van Dyke Show," "Ben Casey," "The Twilight Zone," and "Dr. Kildare."

Greg Morris was a pioneer for African-Americans seeking serious roles in television. His

7-year portrayal of "electronics wizard" Barney Collier thrilled millions of viewers, and no doubt steered many a youngster to pursue an education in electrical engineering, or to follow his/her dream to an acting career in Hollywood. I understand that Mr. Morris was most fond of the 7 years spent on this wonderful series, which was created by famed television pioneer Bruce Geller, who also served as the series' executive producer.

In 1979, Greg moved to Las Vegas to costar in the television series "VegaS," with Robert Urich. Each week. Greg's character, "Lt. David Nelson," joined forces with Urich's character, "Dan Tana," to track down that episode's scourge of the week. Greg fell in love with the city of Las Vegas and decided to make it his permanent home.

Greg Morris was married for 38 years to Leona Morris. The couple had three children, including the actor Phil Morris, and daughters, Linda and Iona.

Mr. Speaker, I confess to having been a huge fan of Greg Morris. He was an outstanding actor; a man who broke down barriers in Hollywood, and a man who carved out a rich legacy for other aspiring African American actors to emulate.

I also confess to having loved "Mission Impossible." I took tremendous pride in turning on my television set each week to watch Greg's character, Barney Collier, develop the most sensational electronics gizmo to foil the bad guys. Along with millions of his fans, I will miss Greg Morris. I therefore ask that my colleagues join me in extending our heartfelt appreciation to Greg's children for sharing their distinguished father with us for nearly four decades. He was a great actor. We shall miss him and extend our sincere condolences to his beloved family.

TRIBUTE TO JERRY JANCZAK

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KLECZKA. Mr. Speaker, I rise today in tribute to Mr. Jerome "Jerry" Janczak, of Greenfield, WI, who will be honored November 7, 1996, by the South Side Business Club of Milwaukee as their Man of the Year.

Jerry's dedication to his family, his business and the Polish community in Milwaukee is a fine example for us all. He and his wife, Grace, have been married since 1954, are the proud parents of two sons and have been blessed with five grandchildren. A graduate of Milwaukee's Notre Dame High School, Jerry served our country proudly in the Air Force. In 1957, he began a distinguished career as a Milwaukee County employee, retiring in 1988 as a deputy clerk of courts, probate division.

Since 1972, Jerry has owned and operated J & J Trophies, a small business.

For many, many years, Jerry has been active in Milwaukee's Polish community, utilizing his talents in numerous ways, including serving on the board of directors of the Milwaukee Society, Polish National Alliance; the board of directors of Polish Festivals, Incorporated; and as a volunteer at Polish Fest, one of our city's unique ethnic festivals.

Jerry has served his parish well, and has been an active office holder of the South Side Business Club, St. Joseph's Foundation, and the St. Vincent DePaul Society.

It is therefore very fitting that Jerry Janczak be honored by the South Side Business Club for his many years of service to the community.

TRIBUTE TO LUCILLE MATYAS ON HER RETIREMENT

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a longtime staff member in my district office, Lucille Matyas. Lucille has been an exceptional staff member in my office. She recently retired from after 11 years of exceptional service to the residents of the 3rd District of Illinois.

Family has always been of the utmost importance to Lucille. Lucille is the wife of the late Richard A. Matyas Sr. Lucille and her husband had three children, George A. Matyas, Richard A. Matyas and Victoria A. Smith. She has two grandchildren, Richard and Reanna Matyas. While raising her three children, Lucille was involved in local activities and charities. In the past she has devoted her time to such groups as, Clear Ridge Baseball, St. Rene Mother's Club, Girl Scouts, De La Salle High School Parent's Club and the Maria High School Mother's Club. Lucille's dedication to these and other groups led to her involvement with politics on a local level. Lucille was a member of the 23rd Ward Democratic Women's Organization as well as the Chicago Democratic Women's Organization. The VFW Women's Auxiliary and St. Rene's Alter and Rosary Society have also received the benefit of support and volunteer time from Lucille.

Like a true Chicagoan, Lucille enjoys watching all Chicago sports teams and counts herself as one of the biggest Bulls fans in Chicago. Lucille enjoys spending time with her family and friends. In her spare time Lucille plays bingo, is an avid reader of books, collects dolls with her daughter and devotes quality time with her two grandchildren. Clearly, Lucille lives a life rich in experience and goodwill.

Lucille has a great many plans for after her retirement, these include enjoying life, spending time with her grandchildren and visiting with friends and family. Additionally, Lucille plans on traveling and sight seeing around the United States Finally, Lucille will volunteer her spare time at local charities.

Mr. Speaker, I thank Lucille Matyas for her many years of dedicated service to the citizens of the 3rd district and to her family. With the combination of dedication to her community and family, Lucille is an inspiration and example to all. I will surely miss seeing her in my district office in Illinois. Lucille has truly been a joy to work with and her hard work and positive attitude have served my district well. I wish Lucille good luck in all of life's adventures.

TRIBUTE TO FRAN KLAUBER AND HOWARD KUSNICK

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DEUTSCH. Mr. Speaker, I rise today to honor two exceptional individuals from Sunrise, FL, Ms. Fran Klauber and Mr. Howard Kusnick. They will both be inducted into the Sunrise Chamber Hall of Fame on October 4, 1996 for their notable accomplishments in the chamber and in the local community. This is the second annual Sunrise Chamber Hall of Fame fundraiser dedicated to recognizing outstanding chamber members who have contributed their time and effort to help the chamber achieve a variety of successes in the Sunrise community.

I applaud the many years that Fran Klauber has spent as an active member of the Sunrise chamber. Fran has served on the chamber board, the president's advisory council, and has been involved in various programs that bridge the Sunrise business community and the local community. Fran has been instrumental in the success of the One for the Kids Program which brings business and schools together so that students, teachers, and parents can interact with leaders in the community. Fran has actively supported the Sunrise Police Athletic League by helping to facilitate the program which provides sport activities for at-risk youth in the community. She devotes a considerable amount of time to enrich the lives of residents in the community through these programs. Currently, she continues to work on behalf of the education system as an ongoing day chair for the Leadership Sunrise Program, a program which gives business leaders valuable insight into Broward's public education system. Her accomplishments as a member of the chamber will forever touch the Sunrise community.

As three term president of the chamber, Howard Kusnick has been an active board member and currently represents the chamber as legal counsel. In 1995, the Broward County Council of Chambers recognized Howard as the Small Business Person of the Year for his leadership, direction and commitment to the business community. As an active member of the Broward Economic Development Council, he has helped to encourage new business in the county to improve the economy. Howard's contributions to the chamber have made a tremendous difference in Broward County.

I wish Fran and Howard the best on receiving this prestigious recognition from the Sunrise Chamber. I know that they will each continue to be effective business leaders and make a difference in the community.

F.M. KIRBY CENTER 10TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to the attention of my colleagues the

10th anniversary of the F.M. Kirby Center for the Performing Arts in Wilkes-Barre, PA. I am pleased to have been asked to join in a community salute of this milestone and to pay tribute to two outstanding community leaders, Mr. F.M. Kirby and Mr. Albert Boscov.

The Kirby Center was originally the centerpiece of the Comerford Theater chain. The state of the art movie theater was the first in the United states to offer air conditioning to its customers. Up until the 1950's the theater remained the focal point of motion picture entertainment in northeastern Pennsylvania. As television gained in popularity, attendance at the Comerford Theater began to suffer.

In 1972, the Wyoming Valley was hit by Hurricane Agnes. The storm caused the Susquehanna River to overflow its banks and devastate downtown Wilkes-Barre with dangerous flooding. The flooding caused extensive damage to the Comerford Theater which was eventually reopened. The flooding caused considerable damage to the downtown retail community and shoppers dwindled. In 1976, due to a lack of attendance the theater was forced to close.

The Comerford Building sat unused and in disrepair for the next 10 years. In order to avoid the destruction of the building, a group of concerned citizens took the first step of having the building placed on the historic register. This initial attempt at preservation was done with hopes of future development.

In 1985, Albert Boscov, the owner of Boscov's Department in downtown Wilkes-Barre became interested in renovating the theater. Mr. Boscov had a dream of turning the theater into a centerpiece performing arts center which would host local and national talent. He began a fund-raising campaign which in a little over a year and half raised $4.3 million from thousands of members of the community, in large and small contributions. A major benefactor of the project was F.M. Kirby II, the son of the cofounder of the Woolworth's Department Store chain. In March of 1986 work was underway on what was to become the F.M. Kirby Center for the Performing Arts. In September 1986, the theater hosted opening night with a gala performance attended by local dignitaries and community leaders.

Mr. Speaker, the 10 years since that opening night have had many high and low points. Like most artistic institutions in our country, the members of the Kirby Center board have endured some economic hardship. In response to diminishing funding for the arts, patron memberships were established and the board of directors forged a profitable alliance with local business leaders to make the center a vibrant and active facility.

Demonstrating its commitment to the Wyoming Valley community, the center provides quality entertainment to over 15,000 school children a year. The center underwrites ticket costs to children's social service agencies and each year introduces a new class of children to the wonders of the arts through its International Children's Theater Festival which draws thousands of children to experience this spectacular event.

As the home of the Northeast Philharmonic Orchestra to its hosting of ballet, Broadway and Sesame Street Live, the Kirby Center has become the center for cultural activity in northeastern Pennsylvania.

Mr. Speaker, the entire community of the Wyoming Valley owes a debt to Mr. Al Boscov and Mr. Fred Kirby for their financial generosity and visionary thinking. They are responsible for taking a forlorn theater and converting it into the vibrant arts center it is today. They believed in the promise of downtown Wilkes-Barre and its long-term economic growth. I am proud to join in the tribute to these outstanding community leaders and to be part of this anniversary celebration.

CAMDEN CITY POLICE

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. ANDREWS. Mr. Speaker, I invite my colleagues to join me in honoring a group of citizens that glorify the State of New Jersey. On May 14 of this year the city of Camden held its' police awards banquet. The event recognized citizens and police officers that went beyond the call of duty in their particular areas of service. While I have formerly acknowledged some of these individuals, due to a clerical error certain police officers were not mentioned by name. Therefore, I would like to highlight these officers who protect our communities and place our lives before their own. Their dedication and service to the people enables us to live in safety. Moreover, their example serves as a model for all citizens.

The following Rutgers University Police should be recognized for their meritorious service: Capt. Guy Still; Lt. Edmund Johnson; Sgt. Michael Amorim; Sgt. Louis Capelli; Officer John Denmark; Officer William Singleton; Officer Lynn Vrooman; Officer Tracy McGriff; and Officer William Princiotta.

The following officers were killed in the line of duty: Officer George F. Jefferis (1951); Sgt. Carmin Fuscellaro (1961); Officer George Schultz (1969); Officer Charles Sutman (1969); Officer Rand Chandler (1969); Officer Elwood Ridge (1973); and Officer Stuart Roberts (1975).

INTRODUCTION OF THE NATIONAL INDIAN EDUCATION BONDING AUTHORITY PILOT PROJECT ACT OF 1996

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. JOHNSON of South Dakota. Mr. Speaker, today, I am introducing legislation to establish an innovative funding mechanism to enhance the ability of Indian tribes to construct, repair, and maintain quality educational facilities. Representatives from tribal schools in my State of South Dakota have been working with tribes nationwide to develop an initiative which I believe will be a positive first step toward addressing the serious crisis we are facing in Indian education. The National Indian Education Bonding Authority Pilot Project Act is currently in draft form. I am introducing this legislation at this stage to begin dialog and debate among my colleagues on this important funding initiative.

Mr. Speaker, 56 percent of the American Indian population in this country is age 24 or younger. Consequently, the need for improved educational programs and facilities, and for training the American Indian workforce is pressing. American Indians have been, and continue to be, disproportionately affected by both poverty and low educational achievement. The high school completion rate for Indian people aged 20 to 24 was 12.5 percent below the national average. American Indian students, on average, have scored far lower on the National Assessment for Education Progress indicators than all other students. In 1994, the combined average score for Indian students on the Scholastic Achievement Test was 65 points lower than the average for all students. These statistics reflect the continued neglect of America's underserved Indian student population and are unacceptable.

By ignoring the most fundamental aspect of education; that is, safe, quality educational facilities, there is little hope of breaking the cycle of low educational achievement, and the unemployment and poverty that result from neglected academic potential.

The National Indian Education Bonding Authority Pilot Project Act establishes a bonding authority to use existing tribal education funds for bonds in the municipal finance market which currently serves local governments across the Nation. Instead of funding construction projects directly, these existing funds will be leveraged through bonds to fund substantially more tribal school construction, maintenance and repair projects.

The Bureau of Indian Affairs estimates the tribal school construction and repair backlog at $850 million. Confounding this backlog, inflation and facility deterioration increases this amount by an estimated $80 million per year. The administration's school construction request for fiscal year 1997 was $23 million, and the House-passed level was a mere $21 million. In this budgetary climate, I believe every avenue for efficiently stretching the Federal dollar should be explored.

Tribal schools in my State and around the country address the unique learning needs and styles of Indian students, with sensitivity to Native cultures, ultimately promoting higher academic achievement. There are strong historical and moral reasons for continued support of tribal schools. In keeping with our special trust responsibility to sovereign Indian nations, we need to promote the self-determination and self-sufficiency of Indian communities. Education is absolutely vital to this effort. Allowing the continued deterioration and decay of tribal schools through lack of funding would violate the Government's commitment and responsibility to Indian nations and only slow the progress of self-sufficiency.

Mr. Speaker, I urge my colleagues to closely examine the National Indian Education Bonding Authority Pilot Project Act and join me in working to make this innovative funding mechanism a reality.

CONGRATULATING THE REPUBLIC OF CHINA ON ITS 85TH ANNIVERSARY

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FALEOMAVAEGA. Mr. Speaker, on the eve of the Republic of China's 85th anniversary—this October 10, 1996—I wish to congratulate Taiwan for the outstanding accomplishments of this thriving and vibrant democracy of 21 million people.

Taiwan is one of the world's most compelling economic success stories, rising from World War II's destructiveness to become a global trading power with foreign exchange reserves today second only to Japan. Taiwan must also be commended for its significant progress toward democratization, which came to full bloom this year with Tawian's first Presidential elections. These historic elections were conducted democratically and peacefully, despite the threats and provocations issued by the People's Republic of China.

In light of these achievements, Taiwan deserves not only our admiration, but support for Taiwan's drive for greater participation in the affairs of the international community. Taiwan's aspirations to be an active member of international organizations of the world community are well-founded. It has all the necessary qualifications: a sound political system, a much-admired world-class economy, and a genuine desire to maintain peace and stability in East Asia, and around the globe.

As noted recently by Taiwan's chief representative to Washington, Dr. Jason Hu, Taiwan's people only seek to receive fair treatment with dignity in the international community. The goal of participation within the global community of governments is, in my opinion, not the same as seeking independence.

On this 85th anniversary celebration for Taiwan, I would urge our colleagues to call upon the world's governments and international organizations to open their doors to Taiwan and extend upgraded ties to this most deserving friend and democracy.

GREECE: A VITAL ALLY IN THE BALKANS AND THE EASTERN MEDITERRANEAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. HAMILTON. Mr. Speaker, I would like to include in the RECORD some recent remarks of mine on the topic of Greece: A vital ally in the Balkans and the Eastern Mediterranean. The text follows:

GREECE: A VITAL ALLY IN THE BALKANS AND THE EASTERN MEDITERRANEAN

THE IMPORTANCE OF UNITED STATES RELATIONS WITH GREECE

The civilization of ancient Greece has shaped the New World. Our democracy, and our highest ideals of citizen participation in public life, follow the Hellenic tradition. Our architecture, our arts and sciences, and the names of towns large and small across the breadth of the continent bear witness to Greece's profound influence on the American experience.

The historical legacy is great, but I also would like to speak of the importance of Greece today: the importance of strong United States relations with our friend, partner, and ally—the people and government of Greece.

A STABLE AND DEMOCRATIC GREECE

If you consider the Balkans and the Eastern Mediterranean today, you see a wide swath of instability, the result of several unresolved ethnic and national questions:

Intercommunal violence and the division of Cyprus continue; the peace process in Bosnic is at a critical stage; Albanian populations present a challenge to current governments in the former Yugoslavia and the Former Yugoslav Republic of Macedonia (FYROM); and Turkey is troubled by political instability and a new Islamic-led government that seems to be turning eastward.

In this uncertain environment of the southern Balkans, Greece stands out as a stable, democratic nation.

Greece's geography, as well as its long history of security cooperation with the United States and NATO, gives it a unique role to play.

The smooth transition from the Papandreou government to that of Prime Minister Costas Simitis underscores Greece's stability.

Greece is headed for another political transition now that Prime Minister Simitis has won re-election and will begin a full term as head of government. I am confident that the United States will be able to forge close working ties with him and his government.

THE GREEK-TURKISH RELATIONSHIP

Greek Prime Minister Simitis is to be commended for the peaceful resolution of the confrontation with Turkey over the Imia rocks in the Aegean earlier this year. His clear, stated desire to improve Greece's relations with all its neighbors and its European Union partners is encouraging. Once again Greece is demonstrating that it is taking steps to enhance peace and security in its part of the world.

I am also pleased that two months ago Greece agreed to lift its hold on a $4.3 billion European Union (EU) aid package to several African and Middle East states, including Turkey.

Greece retains its hold on a $490 million EU aid package for Turkey designed to help the Turks adjust to the demands of the EU-Turkey customs union.

GREECE'S SPECIAL CONCERNS

A sound U.S. policy in southeastern Europe must take into account Greece's special concerns and sensitivities.

The principle elements of good relations in this part of the world must be respect for international borders and respect for minority rights. In the absence of these two, there will be no stability.

We cannot contribute to political stability elsewhere in southeastern Europe and the eastern Mediterranean region if we contribute to political problems in Greece. In other words, we cannot resolve problems in Turkey, the FYROM, Albania or Cyprus at Greece's expense. In this regard, the United States has a special interest in ensuring the human rights of the Greek minority in Albania.

The United States also wants to ensure the rights of, and respect for, the important seat of the Ecumenical Patriarch of the Orthodox Church in Istanbul. The Patriarch is the spiritual leader of 260 million Orthodox Christians.

INSTABILITY IN TURKEY

This country, as well as Greece and our other NATO allies, are justifiably concerned by the political instability in Turkey. On July 8, the Turkish Parliament endorsed the coalition government led by Islamic Welfare Party leader Necmettin Erbakan.

This coalition includes the right-of-center True Path Party led by former Prime Minister and current Foreign Minister, Tansu Ciller.

This marks the first time in the 73-year history of the Turkish Republic that it is headed by an avowed Islamic, instead of secular, leader. The Welfare party and its leader, Erbakan, have taken a populist, anti-western and anti-NATO position on several key issues.

Regardless of the leadership in Turkey, it is in the national interests of Greece and the U.S. to keep Turkey firmly rooted in the western security alliance.

In a hopeful sign, Erbakan initially allayed U.S. and western concerns about the nature of his government. Contrary to his campaign rhetoric, he reaffirmed Turkey's status as a democratic, secular state as well as its links to NATO and the west. His Welfare Party also reversed its previous position and agreed in July in a parliamentary vote to extend the mandate of the U.S.-led Operation Provide Comfort in northern Iraq until the end of the year.

These are positive sighs. But there re many tests ahead.

In Iraq, Saddam Hussein's invasion of Irbil, and the success of his Kurdish partner Massoud Barzani against a rival Kurdish faction, place great stress on U.S.-Turkish ties. Turkey supported U.S. military action against Iraq, but U.S. planes based in Turkey did not participate in that military action. Turkey wants to resume normal commerce and normal relations with Iraq, but the United States wants to keep Turkey part of the coalition to contain Iraqi aggression.

In southeastern Turkey, the government's attempt to stamp out an insurgency with military force is causing great hardship, and by all account appears counterproductive. The Turkish government needs to pursue a political solution that respects the rights of Kurdish citizens of Turkey if it is to defeat the terrorist challenge of the Kurdish Worker's Party (PKK).

In Iran, Prime Minister Erbakan unfortunately has acted upon his campaign promises of closer ties to his eastern Islamic neighbors. Last month, on his first official visit abroad as Prime Minister, Erbakan signed a $23 billion, long-term agreement to purchase natural gas from Iran.

Turkey is energy short and wanted to reduce its dependence on natural gas for Russia. But this move toward Iran is disturbing. It pushes Turkey toward a broader and more active relationship with Iran, a terrorist nation, just at a time when the U.S. is moving to further isolate that nation.

This new gas deal could also trigger economic sanctions against Turkey as a result of the new Iran-Libya sanctions law.

Greece and the United States must remain vigilant to ensure that Turkey under the leadership of the Welfare Party continues to remain an integral part of the western security alliance.

THE CYPRUS ISSUE—THE YEAR OF CYPRUS

According to former Assistant Secretary of State for Europe, Richard Holbrooke, 1996

was supposed to be the "Year of Cyprus" when the Administration was to make a big push for a negotiated settlement.

Many of us in the Congress applauded this long-awaited initiative to provide active and sustained U.S. leadership in the pursuit of a settlement of the Cyprus dispute.

But the initiative got derailed even before the new year began, with the fall of the Ciller government in Turkey and then the Imia rocks confrontation.

As I understand it, the planned U.S. initiative—if and when it gets off the ground—is more procedural than substantive. The plan is to determine if the political will for a settlement exists among the parties in Cyprus and in Athens and Ankara. If the will exists, the U.S. will begin an intensive round of shuttle diplomacy among the parties.

Substantively, the outlines of a settlement have been on the table for some time—the UN plan for a bi-communal, bi-zonal federation.

EU and UN officials are hopeful that EU accession talks with Cyprus, planned to begin in late 1997 upon completion of the EU's on-going Inter-Governmental Conference, will provide the impetus necessary—both among Greek and Turkish Cypriots—for a comprehensive solution to the Cyprus problem.

RECENT VIOLENCE IN CYPRUS

Unfortunately, the violence in Cyprus southeast of Nicosia this summer which claimed at least four lives darkens the prospects of progress toward peace.

In a press statement of August 14, I condemned the violence on Cyprus—the worst clashes since the Turkish invasion of 1974—and urged all sides to step back from further escalation. I also expressed my deep concern about the fighting between Greek and Turkish Cypriots as well as the use of force by Turkish troops which resulted in the death of two Greek Cypriots and the wounding of 11, including two UN peacekeepers.

It is clear that the current stalemate cannot be allowed to fester. If it does, further violence and escalation is predictable. The tense situation on Cyprus needs concerted and top-level attention and the involvement of the President himself.

Our priorities should be to reduce tensions along the UN buffer zone on the island, reduce the inflow of arms to the island, restart intercommunal peace talks and find a basis for direct Greek Cypriot-Turkish Cypriot talks.

THE ALBRIGHT-BEATTIE TRIP

Prior to the recent round of violence, the Administration had energized its diplomatic activity on the Cyprus issue. I was pleased that on July 17–18, U.S. Ambassador to the UN Madeleine Albright and Special Envoy Richard Beattie traveled to the region with specific recommendations for easing tension in the buffer zone and in an effort to improve the atmosphere for advancing a negotiated settlement.

Unfortunately, one of the positive results of this visit, a proposed meeting between the commanders of the Greek Cypriot forces and of the Turkish forces on the island—which would have been the first such meeting since the occupation of northern Cyprus in 1974—did not take place as hoped, due to differences over whether representatives of Turkish Cypriot forces would be present.

Although the trip did not result in any significant break-throughs, it was viewed in the Administration and the region as an important step in diffusing tension, in dealing with security and military issues and, hopefully, in creating a suitable environment to start a more substantive U.S. initiative later this year.

THE U.S. ROLE IS CRITICAL

The recent violence in Cyprus underscores my long-held view that progress on Cyprus is long overdue and should be a high U.S. priority. It remains my hope that a fair and lasting settlement of the Cyprus dispute can be reached in the coming months.

It has always been my firm belief that only high-level an sustained U.S. attention will convince all parties and particularly the Turks, to resolve the Cyprus issue.

It is in U.S. interest as well as all the people of the region that we find a just and lasting solution to this problem.

Turkey remains the key to progress on Cyprus. Only Turkey can push Turkish-Cypriot leader Denktash toward a settlement.

Now is the time to push a U.S. initiative forward. I urge the Administration and specifically Ambassador Beattie, the President's special envoy on Cyprus, to reactivate his diplomacy so that further violence can be averted.

MACEDONIA

Improved relations between Greece and the Former Yugoslav Republic of Macedonia, FYROM, are critical to greater stability in the southern Balkans.

The U.S. has been more sensitive than any of Greece's other allies to Greek concerns regarding FYROM. This Administration has sought to balance its desire to respect Greek concerns with the need to address the new realities created by the dissolution of the former Yugoslavia.

I have consistently urged the Administration to link recognition and the establishment of diplomatic relations with FYROM to a series of steps by the Skopje government to reassure the legitimate security concerns of Greece.

Now this policy is succeeding. Last fall, the Foreign Ministers of Greece and FYROM finalized an agreement which separated the intractable name issue from the other issues. Under the agreement FYROM agreed to change its flag and amend its constitution, and Greece agreed to end its economic blockade of FYROM—which was hurting Greece as well.

This historic agreement was brokered by two Americans, former Secretary of State Cyrus Vance on behalf of the UN and special U.S. envoy Matthew Nimetz.

Face-to-face talks at the UN have so far been unable to produce an agreement on the official name for FYROM. It seems that the FYROM authorities have been unwilling to compromise on this key issue.

I am hopeful that the agreement between Greece FYROM will move us from an era of confrontation and instability to one which will prove mutually advantageous to the people of both Greece and FYROM.

The United States and its NATO allies want to continue to assist Greece and FYROM—within the framework of the UN-sponsored negotiations—to work out their remaining mutual problems, particularly the name issue, as soon as possible.

The failed assassination attempt on FYROM President Gligorov last year, as well as the continuing unrest among the ethnic Albanian population, vividly demonstrates the fragile stability in FYROM, and the need for regional stability.

CONCLUSION

I would like to conclude by reaffirming the special relationship that exists between the United States and Greece. This relationship is based on our long history of shared values and our common interests in stability in southern Europe.

Stability in Greece stands in stark contrast to the unsettled situation in Turkey and the rest of the Balkans. We must continue to engage with Turkey, as a critical NATO ally on a whole range of issues.

But until Turkey can resolve key issues—particularly finding some sort of political solution in southeastern Turkey and ending the division of Cyprus—the U.S. and Greece will find their efforts to achieve lasting stability in southeastern Europe thwarted.

PERSONAL EXPLANATION

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mrs. MEYERS of Kansas. Mr. Speaker, last week, on two occasions, I was recorded as not voting on measures at a time when I was on the House floor and did insert my voting card.

On Tuesday, September 17, I voted "yes" on rollcall 415, a motion to suspend the rules and pass the bill conferring honorary citizenship on Mother Teresa.

On Thursday, September 19, I was on the floor when rollcall vote No. 422 was called, and I voted "yes" on the majority leader's motion to table the Linder privileged resolution.

I am uncertain why these votes did not register, but I was present and voting in both instances.

THE IMPACT OF THE IRISH POTATO FAMINE ON AMERICAN HISTORY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, today, I introduced legislation along with Representative MENENDEZ to encourage America's schools to teach our young students about a tragic period in history that nearly destroyed the people and country of Ireland and forever changed the face of America.

The mass starvation in Ireland from 1845 to 1850 initiated by the dramatic failure of the Irish potato crop is most commonly referred to as the Irish Potato Famine. Although Europe's poorest country in the middle 19th century, Ireland's 8 million inhabitants were curiously well-nourished. The Irish people relied on the potato for the bulk of their diet since it was inexpensive and high in nutrients. However, in 1845, the Irish potato crop was ruined across the entire countryside by phytophthora infestans, an airborne petilence. At the time, no one knew what caused the potato blight and so little could be done to save the crops. Across the whole of Ireland, potatoes simply rotted on the ground.

The failure of the potato crop led to the inability of most Irish families to pay the rent on their cottages which, after Britain's annexation of the island in the late 18th century, were

often owned by British landholders. The vicious cycle of poverty was held intact by both the continuation of the potato blight and the active exportation of the Irish grain crop by the British Crown. Those who traveled across the island during the famine noted the horrifying situation in which they encountered the Irish people. Men, women, and children literally starved to death on the roadside and families huddled together in the cold waiting to die. In fact, while visiting Ireland in 1845, the African-American abolitionist Frederick Douglas wrote that the people of Ireland "are in the same degradation as the American slaves."

A number of British groups threw aside the prevailing prejudices against the Irish to provide relief from what had become a starvation of epidemic proportions in the colony. The Quakers, or the Society of Friends, even set up a vast array of soup kitchens throughout the countryside. However, it was not enough to stop the hunger and loss of farming wages. By the end of the epidemic in 1850, more than 1 million Irish had perished from the hunger, cold, and disease brought about by the potato blight. It seemed the only way to elude the horrors of the famine was to leave Ireland—and so many did just that:

Although the voyage was treacherous and relatively expensive, more than 1 million Irish emigrated to the United States during the famine. Initially, they settled in the cities of the northeastern seaboard such as Boston and New York. Later they pushed westward to Chicago, the Great Plains, and the uncharted Western territories. With them they brought their Celtic culture and determination. Aside from impacting the basic makeup of the American people, Irish-Americans have made significant contributions in American business, law, music, athletics, literature, religion, and politics. In fact, U.S. Presidents John F. Kennedy and Ronald Reagan, considered by many to be the greatest Presidential orators in their respective political parties this century, are both from Irish-American families.

Perhaps, though, the legacy of the Irish Famine's immigration wave to America is most evident in our everyday lives. Today, 5 million of New Jersey's 8 million inhabitats claim some Irish descent, as do millions of other Americans. The resolution put forth today by myself and Representative MEMENDEZ recognizes the contributions made by Irish-Americans to our greater American heritage. Irish-Americans have left an indelible mark on American culture and history, and for that reason our children should learn more about the tragic famine which brought so many of them to our shores in search of freedom from hunger, freedom from want, and freedom from colonial rule.

SITUATION IN CYPRUS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. PORTER. Mr. Speaker, the recent shootings of two young Cypriots and a Turkish Cypriot soldier highlight the need to demilitarize Cyprus as a first step toward achieving a just and lasting solution to the Cyprus problem. Last fall, the U.S. House of Representatives adopted a resolution calling for demilitarization, and its was subsequently approved by the Senate Foreign Relations Committee.

Unfortunately, demilitarization will not occur demilitarization, and it was subsequently approved by the Senate Foreign Relations Committee.

Unfortunately, demilitarization will not occur unless Turkey demonstrates the political will to compromise. In order for that to happen, the United States and its European allies must make a concerted effort to convince Turkey that an end to the division of Cyprus is in everyone's security interest.

I urge all Members to consider the following letter to the editor submitted by Andrew J. Jacovides, the Ambassador of the Republic of Cyprus and respected colleague. Mr. Jacovides makes a compelling case in support of a strong effort toward Cyprus reunification and the protection of human rights on the island. It appeared in the Washington Post on September 9, 1996.

[From the Washington Post, Sept. 9, 1996]

CYPRUS: THE PROBLEM IS SOLVABLE

(By Andrew J. Jacovides)

The editorial "Cyprus: Try Everything" [Aug. 26], though well intended and timely, particularly in the wake of the recent brutal murders of two unarmed young Greek Cypriots who were peacefully demonstrating their justifiable feelings against Turkish occupation, miscasts some of the main relevant issues.

The recent events demonstrate that the status quo of occupation and forcible division is unacceptable and is indeed a source of tension and instability as well as the cause of grave injustice and much human suffering. In fact, there is much more in common that can unite Greek and Turkish Cypriots than the differences that at present divide them (though, of course, this does not hold true for the Anatolian settlers or the "Grey Wolves" imported from Turkey).

The Cyprus problem is solvable, and the basis for its solution lies within the parameters defined by U.N. resolutions, voted for also by the United States. In addition to the prospect of Cyprus's accession to the European Union highlighted in The Post's editorial, the demilitarization of Cyprus is a key element. In a resolution overwhelmingly adopted by the House of Representatives last September, Congress "considers that ultimate, total demilitarization of the Republic of Cyprus would meet the security concerns of all parties involved, would enhance prospects for a peaceful and lasting resolution of the dispute regarding Cyprus, would benefit all of the people of Cyprus, and merits international support."

There has been no lack of prominent diplomats engaged in the search for a Cyprus settlement, including Richard Holbrooke, Richard Beattie and, most recently, U.N. Ambassador Madeleine Albright. We certainly welcome such engagement. What is lacking, however, is the political will and the flexibility necessary to make a breakthrough toward a compromise solution on the part of Ankara, which has long held the key to such a solution through its military, economic and political dominance of the occupied northern part of Cyprus since 1974. Regrettably, the current regime in Turkey does not hold much promise that this will happen soon, unless there is a concerted international effort directed toward Ankara.

A just and lasting solution to the Cyprus problem is to the benefit of all parties concerned and is in fact crucial to improved relations between Greece and Turkey. For the United States, which has excellent relations with Cyprus as highlighted during the recent visit of President Glafcos Clerides to Washington, such a solution enjoys bipartisan support and is in the national interest. It can be achieved with active U.S. engagement and will be a foreign policy success for the United States and indeed for any administration.

The issue is not to just "try everything" but to take all appropriate and effective steps to end the division of the island and safeguard the security and human rights of all its people in a demilitarized, federal Cyprus within the European Union.

BROOKSIDE AMERICAN LEGION 50TH YEAR

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the American Legion Brookside Post 837 on its 50th anniversary. In commemoration of this special event, it is my pleasure to bring the history of this post to the attention of my colleagues.

The dedication of the members of Brookside Post 837 and its many members have brought it to this proud moment. Fifty years ago in 1946, a group of World War II veterans from the Brookside and North End sections of Wilkes-Barre gathered to begin plans to organize a chapter of the American Legion. Contact was made with Commander Renfer of District 12. He advised the group and provided charter application information. The application was submitted with only 20 signatures and the charter was granted. An election of officers was conducted, and the group chose Nick Maliborsky as the first commander.

Over the years the membership declined and the charter was in jeopardy. A reorganization of the post began. Paul Makuch was elected second commander of the post. Commander Makuch's resilience and good leadership were instrumental in bringing a number of members back to the post. There are now approximately 185 members.

Brookside Post 837, "The smallest Post that does the most," is known for its support of Legion affairs such as; military wake services and funerals, parades, community sponsored activities, and strong comradeship.

Their history would be incomplete if not for the dedication of the women of the Ladies Auxiliary. These ladies must be acknowledged for their tireless efforts on behalf of the post and their spouses.

Mr. Speaker, the beginning years were difficult for this post, but due to the solid foundation of loyal members past and present, Brookside Post 837 now proudly celebrates 50 golden years of dedicated service to God, country, and the community. I am pleased to have been asked to be a part of this milestone celebration and send my best wishes to these proud Legionnaires for a prosperous future.

TRIBUTE TO DAVID E. McCREE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DIXON. Mr. Speaker, today marks the 29th anniversary of Rayburn Underground Garage Attendant Dave McCree's employment on Capitol Hill. On Monday, September 30, 1996, Dave will retire from the "Hill," where he has worked for nearly three decades. In recognition of his years of service to this great institution, I am pleased to rise today to wish him a wonderful retirement and to thank him for his year of service to the United States House of Representatives.

For the past 29 years, Dave's has been one of the first faces Members and staff encounter upon entering the Rayburn garage on C Street, S.W. If your battery failed, Dave has been there for all of us with the portable recharger. If your problem was a flat tire, he has been there to repair your flat. And if the problem was a bothersome little clink under the hood, he has been there to offer advice and to occasionally tinker under the hood until the problem was resolved. In every instance, Dave has rendered this service with a smile, and with a sincere willingness to help.

Dave began his career on Capitol Hill on September 24, 1967. For the past 29 years, he has risen before most of us to make the trip from his native Baltimore to work on Capitol Hill. Among his most cherished memories I am told are the many dignitaries he has met, especially the renowned actors Kirk Douglas, Telly Savalas, legendary football great Rosie Grier, and the actress we all know as Wonder Woman, Linda Carter.

A man of few words, Dave has—I am sure—witnessed many changes on the "Hill" during the past 29 years. He has done so with dignity, and with a resolve to discharge his duties with the same high degree of excellence and dedication that have served as hallmarks of his career with the United States House of Representatives.

Mr. Speaker, those of us who have been here for many years can look with pride to the character and service of people like Dave McCree. He has been a loyal and dedicated employee whom we shall miss. Please join me in extending our heartfelt thanks to him for his years of service to this institution, and in wishing him and his family of five adult children continued happiness and success in the future.

CORPORATE RESPONSIBILITY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. HOYER. Mr. Speaker, corporate downsizing and layoffs continue to heighten the anxiety of the American worker.

In the new economy of the 1990's American workers can expect to change jobs seven or eight times throughout their careers.

No one can guarantee American families job security—however, American families can be protected from the destructive consequences of economic change—such as families losing health insurance and losing pension protection. We can also offer job training to increase the skills of our workers facing a rapidly changing job market.

Both President Clinton and the Democratic families first agenda call for initiatives to solve these problems, as well as to promote worker retraining and put people on the path of reemployment and higher wages.

But Government cannot solve the problem of worker anxiety alone—Corporate America must take responsibility, as well.

The following essay by noted social commentator Paul Harvey directly addresses the issue of corporate responsibility. Mr. Harvey, in his unique style, discusses Aaron Feurstein, president of Malden Mills, who continued to pay his employees even after his plant burned down.

Mr. Speaker, I commend Mr. Feurstein's actions—it is this type of commitment that builds security, trust and commitment between our Nation's workers and their employees.

[From the Paul Harvey News, Apr. 27, 1996]

NONE OF MY BUSINESS

Any business begins with an idea and grows by selling that idea. It sounds simple. It is not.

Retirement areas are studded with cheap grave markers. Pa and Ma, recently retired, have always enjoyed meeting people. Why not take their life savings and invest in a small retail business?

Buying and selling sounds like fun.

But Pa and Ma and their business are likely to suffocate under an avalanche of tax forms and other government required documents.

You'll see this cruel rise and fall repeated many times in any shopping mall. This next relates to that, however, distantly:

These days, for any business to keep going requires further investment in tax accountant, lawyers, bookkeepers and sales staff.

And on the way to incorporation on a large scale, the business is likely to accumulate redundant layers of bureaucracy and to leave its "heart" behind.

You have sometimes been amazed at how some big corporation will invest millions of dollars a year in "public relations" then—with one heartless massive layoff of workers just before Christmas—the corporation shoots itself in the foot.

A corporation has outgrown its britches when its bean-counters announce with pride "record profits" one week before its labor relations lawyers are scheduled to negotiate a new contract.

What has come to be called "corporate downsizing" is going to be a significant economic issue in the next election.

There is no way to streamline an overbloated business other than by shrinking the number of employees but unless corporate giants also practice "the golden rule" in their dealings with employees they are inviting a rude rebuke.

Enlightened management has already learned to weigh short-term profits and the obligation to stockholders—and balance those considerations against treating employees fairly, preserving customer loyalty and maintaining an affirmative public image.

Any CEO who orders layoffs in the name of cost-cutting while preserving his own multimillion dollar income intact is at least unfeeling.

Industries are going to need all the friends they can get next polling time.

One good example is worth a thousand admonitions: When Malden Mills burned last December, its President Aaron Feurstein vowed to rebuild and to keep all his workers on the payroll.

This icon of corporate decency has been rewarded with three divisions already running again and 80% of all employees back at work.

It cost Malden Mills ten million dollars to pay those workers while they are idle but, back at work, both quality and efficiency are better than ever. At one plant production has doubled!

Mr. Feurstein says, "To discard responsibility to our workers and to think only of profit in the long run will profit no one."

HONORING TELAMON ELECTRONICS

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KIM. Mr. Speaker, I rise today to congratulate a dynamic small business in my district. Telamon Electronics will celebrate the opening of its expanded facility in Chino, CA, on October 1. Located 35 miles of Los Angeles, the growth of Telamon Electronics—a subsidiary of Telamon Corp. in Indianapolis—is having a significant impact on the economy of California's 41st District.

Telamon Corp.—working with suppliers and customers, including Nortel and Pacific Bell—has been providing high-technology telecommunications products and services to the telecommunications industry since 1984. Telamon was founded by Albert Chen, who built the company with the vision that a highly creative company poised to support one of the world's fastest growing industries could gracefully combine financial success, corporate growth, employee satisfaction, the highest quality products, and services in the industry, as well as customer satisfaction.

Over the years Telamon's range of capabilities has increased, as its reputation for creative solutions with uncompromising quality has become widely recognized. This has resulted in enormous growth—from sales of $400,000 in 1985 to sales of $108 million in 1995.

In 1989, Telamon Electronics was established as a value-added supplier of material management, preinstallation assembly, and other support services to Regional Bell Operating Cos., independent telephone companies, and government agencies located in the Western United States. Under the leadership of Michael Shen, president and Allen Vick, vice president, Telamon Electronics has achieved great success, which it has passed along to the city of Chino, the county of San Bernardino, and the State of California. As the highest sales tax generator out of 2,100 businesses in the city of Chino, Telamon Electronics added almost $1 million in tax revenue to the economy of California's 41st District.

Tax revenue is only one part of Telamon Electronics' impact on the local economy.

Telamon provides employment for many people in the inland Empire. The number of employees has grown to over 35 in 1996. To foster employee growth, Telamon Electronics offers profit sharing, suggestion rewards, scholarships for employees' children, and education grants for professional growth.

It gives me great pleasure to ask my colleagues to join me in congratulating Albert Chen, Michael Shen, Allen Vick, and all the employees of Telamon Electronics for making a real difference in our local community.

THE 175TH ANNIVERSARY OF TRINITY EPISCOPAL CHURCH IN ST. AUGUSTINE, FL

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mrs. FOWLER. Mr. Speaker, I would like to bring the attention of my colleagues to an event of great historical significance which will be occurring in my district on October 13, 1996. On that date, Trinity Episcopal Church of St. Augustine—Florida's oldest Protestant Church—will celebrate its 175th anniversary.

Established in 1821 by a missionary priest from St. Phillips Episcopal Church in Charleston, SC, Trinity has had a long and distinguished history. It was one of five churches in the State of Florida which met in 1838 to form the diocese of Florida; and it has always been an integral part of life in St. Augustine, America's oldest city.

Trinity has met the worship needs of many thousands of people over the last 175 years. In addition, the parish has shown a continuing commitment to serving the community at large. Trinity supports St. Gerard House, which ares for unmarried pregnant women; and provides meeting space for various groups, including alcoholics anonymous. The church also helped to create St. Francis House, a facility which provides assistance to the poor and to transients who pass through St. Augustine. In addition, Trinity's Early Learning Center provides a nurturing and educational environment for some of the community's youngest residents.

Mr. Speaker, I know my colleagues will join me in congratulating the members of Trinity Church on reaching this significant milestone, and in thanking them for their devotion to spreading the word of God and serving others.

RETIREMENT COMMENDATION OF RICKY N. RIGGINS

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CHRYSLER. Mr. Speaker, I rise today to commend Chief Ricky N. Riggins.

Chief Ricky N. Riggins was born in Oxnard, CA, on June 29, 1954. He graduated from Nordhoff High School in June, 1972, and attended Ventura Junior College for one semester before joining the U.S. Navy on February 5, 1973. His illustrious 24-year career has led Chief Riggins to various assignments after completing signalman training in San Diego.

While on active duty, Chief Riggins attended Central Texas College. He graduated in August of 1994, receiving an associates degree in general studies. Signalman Chief Petty Officer Riggins plans to attend Michigan State University to complete his masters degree after he retires.

Chief Riggins has served his last 2 years as the leading chief signalman on board the U.S.S. *Germantown* (LSD–42), responsible for the welfare and training of all assigned personnel in the communications division as well as the operations department. Chief Riggins is married to Pantipa Hartke of Korat, Thailand. They have four children: First, Ricky, Jeremy, and Jamie, as well as two grandchildren, Ricky and Jeremy, Jr.

Chief Riggins has had significant community involvement. He was active in his church as a deacon, a lay leader, as a member of his church council youth ministries committee, and as church council secretary. Chief Riggins served as a Red Cross volunteer providing service to military families, and as a contact person for military service members and their families through the Red Cross Service to Military Families. With over 500 hours contributed in the State of Michigan and around the world, Rick was selected as the SMF Volunteer in the Spotlight for the month of October 1993.

Rick has been involved in the Boy Scouts of America in Lansing, MI, and abroad in Japan's Far East Council. During his reassignment to Sasebo, Japan, for the last 2 years, Chief Riggins has served as the unit commissioner for Troop and Pack 76 as a member of the Far East Council. His accomplishments and awards are truly awe-inspiring, and I thank Chief Riggins for his contributions to our society not only as a Member of Congress, but as a citizen of Michigan, the United States, and the world.

HONORING CALVERTON NATIONAL CEMETERY AS 1996 TROPHY WINNER OF ROBERT W. CAREY QUALITY AWARD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to congratulate the Calverton National Cemetery of Calverton, NY, for being recognized as this year's Robert W. Carey Quality Award winner.

The Robert W. Carey Quality Award is an annual award presented by the Secretary of Veteran's Affairs to recognize organizations within the Department which have implemented quality management in an exemplary manner, resulting in high quality products and services while promoting the effective use of taxpayer dollars. Named in memory of Robert W. Carey, Director of the Veterans Administration Regional Office and Insurance Center in Philadelphia, this award is the highest and most prestigious quality award presented to an organization by the Department of Veterans Affairs. It seeks to promote quality management awareness and implementation throughout the Department and to provide a model against which organizations can assess their quality transformation efforts and organizational effectiveness in delivering services. This award is used as an internal assessment tool and supports the Secretary's Performance Agreement with the President.

I urge all my colleagues to join me in congratulating the Calverton National Cemetery for their outstanding achievement and well-deserved honors.

THE RURAL LAW ENFORCEMENT ACT OF 1996

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BALDACCI. Mr. Speaker, I am pleased to introduce today the Rural Law Enforcement Act of 1996. This bill recognizes that in spite of recent efforts to provide adequate funding and resources for law enforcement departments around our Nation, a significant segment within this population continues to be underserved. I am speaking about those departments that serve rural areas.

One-third of all Americans live in nonurban areas and 90 percent of all law enforcement agencies serve populations of fewer than 25,000 residents; 75 percent of all law enforcement agencies serve a population of fewer than 10,000 residents; 85 percent of police departments in America have 10 or less officers on the force. Yet statistics show that fewer than 200 cities get the lion's share of Federal funding for combating crime. This would not be problematic but for the fact that while the national crime index for violent crime has been on a steady decline over the past 5 years, rural violent crime has increased over 35 percent from 1985 to 1995. It is in response to this trend along with the pleas for increased resources that I have heard from rural law enforcement agencies in my district that I introduce this legislation.

This bill seeks to enhance the National Center for Rural Law Enforcement and charges this Center to provide, among other things, the following resources for rural law enforcement agencies nationwide:

Training of law enforcement supervisors and personnel who serve in rural communities on how best to address those criminal issues that are unique to their rural areas, taking into consideration the limited resources available to these departments.

Funding for grants and contracts for Federal, State, and local units of government; as well as for public and private agencies, educational institutions, organizations, and individuals; to work together effectively in combating crime in rural areas.

The establishment of a clearinghouse and information center on criminal justice and law enforcement to provide a communications network to link rural agency heads to one another, around the country.

Consulting assistance to criminal justice agencies with respect to problem solving,

training, and community outreach in rural law enforcement jurisdiction.

I have been in touch with law enforcement officials and community leaders in my home State of Maine regarding this legislation. From the community response coordinator for a domestic violence program in Bangor, to the U.S. marshal of Maine, to the sheriff of rural Aroostook County, to the former chief of police of Presque Isle, I have heard unanimous support for this legislation. The reasons for their support were unanimous as well—there are just not enough resources currently available for rural law enforcement to adequately address the needs of the populations they serve.

Providing public safety is a crucial part of the infrastructure that makes up our communities; allowing effective and impartial enforcement of the law is one of the most important functions of the Government. We look to law enforcement officials to adequately address issues of crime and violence in our communities, to know how to quickly assess situations and respond appropriately, and to reach out to other individuals and services in the community in efforts to learn about their concerns and about the resources available within their programs. I believe that this bill will make these goals into realities for our rural law enforcement agencies.

ECONOMIC DEVELOPMENT IN PUERTO RICO

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mrs. JOHNSON of Connecticut. Mr. Speaker, Congress took dramatic action last month in the Small Business Job Protection Act (Public Law 104–188) by eliminating the principal tax incentive for economic development in Puerto Rico, section 936 of the Internal Revenue Code. While I supported this measure, it was unfortunate that we could not use this opportunity to construct a long-term replacement incentive program, as urged by Puerto Rico Governor Pedro Rossello. I believe it is very important that we return to this subject in the next Congress to build a new long-term economic incentive for Puerto Rico using as its base the new section 30A of the Tax Code, which we established in the small business legislation.

There is consensus that the job creation incentives in section 30A, while a useful start, do not provide the dynamic incentives needed by the 3.7 million American citizens of Puerto Rico to become economically self sufficient. along with Ways and Means Committee Chairman BILL ARCHER, I would like to work with Governor Rossello and other elected leaders of Puerto Rico to develop a sound long-term economic program to achieve this goal.

Although section 936 has been eliminated because its benefits were deemed overly generous in the current budgetary climate, the last chapter for Puerto Rico economic incentives has not been written. I look forward to working in the next Congress toward long-term, effective incentives that foster new investment and create high-quality jobs in Puerto Rico.

TRIBUTE TO WILLIAM BROWER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Ms. KAPTUR. Mr. Speaker, I rise today to note the recent retirement from the Blade newspaper of Toledoan, William Brower, a well-known veteran journalist of more than 50 years. He became one of the first African-Americans to work for a daily Ohio newspaper. He was officially recognized this year by the National Association of Black Journalists for its Lifetime Achievement Award.

A Wilberforce University graduate, Bill began his journalism career writing for African-American newspapers in Baltimore, Philadelphia, and Richmond, VA. Hired by Toledo's newspaper, the Blade, in 1947, Bill began as a general assignment reporter. Throughout his years with the paper, he held positions covering the police, courthouse, and education beats, and served as an assistant city editor, news editor, and associate editor. His thrice weekly editorial columns covering politics, sports, and topics of interest to African-Americans became a staple of Toledo area news.

In 1951, he was awarded a Pulitzer Prize nomination for a series of stories written after a tour of 20 States on the conditions experienced by black Americans. In 1971, he followed that story with a series, "Black America—20 Years Later," which won him a Robert F. Kennedy Foundation Award.

The National Association of Black Journalists paid tribute to Bill for his "pioneering spirit" and "outstanding leadership in the media industry." The same can be said of his role in our community. Bill Brower and his wife Edna have been groundbreakers, trailblazers, and voices of strength and wisdom in Toledo. Their dedication to one another continues to be a source of inspiration to us all. His writings have often required us to look at a reflection of ourselves, and in doing so, have moved us to become better people.

No commendation could sum up fully half a century of journalistic achievement. But in honoring his life, the Blade has endorsed independent thought and the advancement of our common heritage as a free people.

ETHNIC TENSIONS CONTINUE IN THE BALKANS

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Ms. MOLINARI. Mr. Speaker, as the international community awaits analysis of last Saturday's Bosnian elections, it is now time to focus the spotlight on the other ethnic conflicts that continue to fester in the Balkans. A lasting peace in the region can never be obtained without a satisfactory resolution of the ethnic tensions there.

With that in mind, I commend the Congressional Human Rights Caucus for holding a briefing last week to report on the situation in Sanjak, a small region of the former Yugoslavia that is bordered on one side by Bosnia and on the other by Kosova. Testifying at the briefing was Mr. Bajram Omeragic, president of the external board of the Muslim National Council of Sanjak. His statement provides an illuminating discussion of the plight of the Bosniac people of Sanjak, and why they believe the international community must come to their assistance.

TESTIMONY OF MR. BAJRAM OMERAGIC

I.

Mr. Chairman an Distinguished Members of the Caucus. It is an honor for me to testify before you this morning to discuss the problems facing the Bosniac people of Sanjak, a region of former Yugoslavia that has largely been ignored by the international community. We are grateful for the growing interest in Sanjak among Members of the U.S. House of Representatives and Senate.

We have suffered in relative obscurity until now, and you are helping us generate the attention our people deserve and recognition that the intolerable situation we face cannot be prolonged.

II.

On the eve of the elections in Bosnia Saturday, the eyes of America and the world are focused on the Balkans. Regardless of the outcome of the Bosnian elections, the struggle to achieve lasting peace and freedom in the Balkans has just begun. As U.S. mediator Richard Holbrooke said recently, the Bosnia elections do not constitute the end of the game, but rather the beginning of establishing democracy in former Yugoslavia.

Mr. Holbrooke's recognition that the Dayton agreement was incomplete and inadequate implies that there is indeed unfinished business that must be resolved. We agree with Mr. Holbrooke that a new Dayton-type international conference on former Yugoslavia should occur soon after the Bosnian elections to address the wide range of issues that were intentionally left out of last year's agreements.

The "Dayton II" agenda should include resolution of the status of the Sanjak region and other troubling, and potentially dangerous conflicts that must be resolved before lasting peace can be achieved in the Balkans.

As Western powers meet with Balkan leaders at the December London conference, the issue of Sanjak must be on the agenda of unfinished business.

III.

While the world focuses on the Bosnia elections Saturday, there is another election coming up that demands the attention of the international community and world news media.

On November 3, the citizens of the Federal Republic of Yugoslavia, that is Serbia and Montenegro, will go to the polls to elect federal leaders. In Sanjak, we have decided to participate in the elections.

A boycott by our people would mean that we would have absolutely no opposition voice in federal government decisions. We prefer to fight for change from within.

While we are committed to democratic and fair elections, the Belgrade regime is not. We have evidence that Milosevic is trying to rig the elections in Sanjak in favor of the Serbs. By arbitrarily changing the number of voters comprising an election unit, based on numbers of Serbs in each voting district, Milosevic is trying to steal the election in Sanjak. There are election districts in which 200 Serbs will elect candidates, while similar districts will require 2,000 Bosniacs to elect a candidate. Such undemocratic, unfair and illegal tactics must be exposed. This cynical

manipulation of the election process should alarm the U.S. and other democratic nations.

The president of our Council, Dr. Sulkeman Ugljanin, is meeting in Sarajevo this week with Carl Bildt, the international community's representative in former Yugoslavia, to express our outrage at such tactics. We are urgently requesting international election monitors to observe and report on such election irregularities and abuses.

We call on the U.S. Congress to send observers to Sanjak to see for themselves.

IV.

Sanjak is a small region of Yugoslavia, some 8,687 square kilometers, bordered on one side by Bosnia and Kosovo on the other. Two-thirds, or 350,000, of our people are Bosniacs who have historically maintained strong ties to Bosnia.

Throughout its history, Sanjak has been subjected to a deliberate, premeditated campaign of brutality and repression at the hands of the Serbs and Montenegrins. Conditions became much worse since the Milosevic regime unleashed its campaign of terror against non-Serbs and Bosnia exploded into war.

In April 1992, the Bosniac people were expunged from the constitution of Yugoslavia. Bosniacs living near the border were subjected to "ethnic cleansing" even though they lived within Serbia.

Over 60,000 Bosniacs have fled our homeland, dispersed throughout Europe and America;

250 Bosniacs have been killed, kidnapped and/or disappeared;

In the townships of Priboj and Pljevlja, 51 villages have been ethnically cleansed with homes looted and demolished;

317 homes have been destroyed;

Over 17,000 Bosniacs have been subjected to some form of state military-police brutality and terrorism;

During 1993 and 1994, our political leaders, including Mr. Hadzic, were arrested and organized political processes were halted;

An arrest warrant was issued for the President of the Muslim National Council of Sanjak and SDA, when he was going to a peace conference in Geneva; he has been living in exile for three years.

Please allow us to remind you that Sanjak is the only territory in the Federal Republic of Yugoslavia where citizens do not have freedom of movement. People from Priboj and Pljevlja are forbidden from returning to their villages from which they were expelled.

Many Bosniac citizens have been sacked from their jobs with state companies, leading to a serious humanitarian situation in the country.

V.

I can tell you today that President Ugljanin will return to Sanjak before the end of this month. When he does, we are afraid he could be arrested by Yugoslav authorities. This must not be allowed to happen.

We appeal to Members of the U.S. Congress and parliamentarians around the world who are committed to political freedom and liberty to join us in an unprecedented demonstration of support for democracy. We invite Members of the Congressional Human Rights Caucus to come to Sanjak, to accompany President Ugljanin as he returns, and to lend their opposition to the antidemocratic Yugoslav regime at this critical time.

We encourage U.S. and international journalists to shine the revealing spotlight of media coverage on the Yugoslav autocratic, repressive and undemocratic regime.

We need your help, and we need it now.

VI.

There are other peoples in the Balkans who have suffered tremendous hardships and atrocities, confirmed by dozens of investigations and reports by officials such as Tadeusz Mazowiecki, former U.N. Special Rapporteur for human rights in former Yugoslavia, and his successor, Mrs. Elisabeth Rhen. Reports from the U.N. Human Rights Commission, U.S. State Department, Amnesty International, Helskini Watch, and many others have documented the Serbian-Montenegrin reign of terror and human rights violations.

In 1991, the Muslim National Council of Sanjak encouraged all young men from Sanjak and other parts of Yugoslavia not to participate in the war in Slovenia and Croatia. We have chosen a path of peaceful resistance to achieve a special status or autonomy within Yugoslavia. So far, the international community has not addressed our problem, in spite of the fact that we have chosen peaceful means to achieve that goal. That is a bad message for the future.

While we accept, if not fully understand, why the Dayton Agreements focused solely on the situation in Bosnia, now is the time to look beyond Bosnia to the range of ethnic problems that will cause continued unrest in the Balkans until they are satisfactorily addressed.

In Dayton, the United States assumed a leadership role toward seeking peace in the Balkans. We applaud that leadership, and ask that you now take the next steps to begin soon after Saturday's elections. On the agenda should be a special status for Sanjak which recognizes the rights and freedoms of our people.

We seek:

Natinal equality within former Yugoslavia;

A special status (autonomy) as a mechanism to achieve national equality;

The maintenance of the "outer wall" of sanctions in Serbia-Montenegro until the status of Sanjak is resolved;

Return of the OSCE permanent mission to Sanjak to help establish the necessary conditions for observing elections.

An end to political persecution such as that in Novi Pazar, our capital, where our elected political representatives have no freedom of movement. Their passports have been confiscated by Serbian police, making it impossible for them to travel. They are forced to come to so-called "informative talks" with the Serb authorities during which they are abused and terrorized.

U.S. pressure on the War Crimes Tribunal in The Hague to charge those who destroyed 51 villages and kidnapped and killed Bosniac people in Sanjak.

VII.

Since 1991, the world has witnessed in the Balkans the worst crimes against humanity since World War II. At the War Crimes Tribunal meeting in The Hague is demonstrating, the overwhelming preponderance of atrocities have been committed by the Serbs, in quest of a "Great Serbia." With the Bosian elections Saturday a key benchmark in implementation of the Dayton agreement, the future is far from settled.

Indeed, the elections with the expected fraud, manipulation, intimidation and incompleteness will most likely perpetuate the confusion and fall short of moving toward a unified Bosnia.

The Bosnia people of Sanjak have endured a lot, and while we are prepared to negotiate our fate in good faith, we call on the United States of America, the one champion of human rights and political freedom in the world, to come to our aid.

Thank you, again, for providing us this opportunity to appear before you today. We are prepared to respond to your questions.

IN HONOR OF HELEN L. SEVERNS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to Mrs. Helen L. Severns, who passed away May 2, 1996.

Born and raised in Decatur, IL, Helen Severns was a pillar of the community who served in countless ways up to the very day of her passing.

The daughter of the late Russell Waggoner and Goldie Waggoner Watson, Helen Severns was an active member of the Concordia Lutheran Church. She was a tireless volunteer for the Retired Senior Citizen Program, Meals-On-Wheels and other civic groups, including being given a lifetime membership award from the Parent-Teachers Association.

Being a political volunteer was perhaps the most colorful thread she wove into the fabric of her hometown. Helen Severns began her remarkable career when she served as Democratic election judge from 1972 to 1976. She was a precinct committeewoman from 1976 to 1992. She coordinated Macon County for Senator PAUL SIMON, was a member of the Independent Democratic Women's Organization, served as cochair of the Illinois Electoral College in 1992 and represented Illinois as an elector to President Clinton's inauguration in 1993.

Despite all of these lofty achievements, Helen's greatest joy was when her daughter won her first State Senate race. I have been honored to serve in the Illinois State Senate with Senator Penny Severns and to share the responsibility of dealing with the issues important to our many mutual constituents. With Penny and Helen Severns, the apple did not fall far from the tree.

Helen Severns is survived by her husband, Donald, her sons Donald Severns, Jr. and Rodney Severns, and her daughters Patty Severns Love and Penny Severns. She is dearly missed, but we are comforted by her memory and inspired by her legacy.

LEO BALCER INDUCTED INTO THE MICHIGAN POLKA MUSIC HALL OF FAME

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CHRYSLER. Mr. Speaker, I rise today to commend Leo A. Balcer.

Leo A. Balcer was born in Bay City, MI, in 1932. Keeping with a family tradition of music, Leo became a first-rate accordion player. I am pleased to witness Leo Balcer become the newest member of the Michigan Polka Music Hall of Fame.

From playing with the "Melody Makers" in Bay City St. Stanislaus High School, Leo continued his musical career in the U.S. Air Force in 1952. His dance bands were fabulous entertainment, and were competitive in band contests in the United States and abroad.

After graduating from Michigan State University in 1960, Leo and his family settled in the Lansing area. Soon, Leo and his seven piece band became a cornerstone of the mid-Michigan music scene. Leo has brought joy to thousands of people as he led his band to restaurants, bars, dance clubs, and community events.

Leo's career has not been confined to the United States. Along with performing competitively in Libya while in the Air Force, Leo has performed twice in Austria at the International Polkafest.

I salute the musical accomplishments of Leo Balcer, and commend him for his years of dedicated entertainment to the people of Michigan and around the world. In the words of our Polish forefathers, "gratulacje!"

DISTRICT OF COLUMBIA ECONOMIC RECOVERY ACT OF 1996

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Ms. NORTON. Mr. Speaker, this replacement bill contains an amendment which was meant to be incorporated into H.R. 3244, the District of Columbia Economic Recovery Act of 1996. Only because of the rush to get H.R. 3244 in on April 15, 1996, income tax day, was it omitted from the bill. This amendment is not an unusual provision. As is often the case with a bill which strives for particular effects, this amendment provides a mechanism to measure those effects. The primary importance of this amendment is to provide for course corrections, if necessary. Because no bill of this kind has been attempted before, unintended consequences could arise and changes may be needed. The data the Treasury will provide will alert Congress of any need for changes or improvements in the bill based on actual experience.

THE ETHICS PROCESS

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. GOSS. Mr. Speaker, I offer these comments in response to those submitted by my dear friend, the ranking member of the Rules Committee, Mr. MOAKLEY, late last week. Mr. MOAKLEY was continuing the dialog about our ethics process and I wish to respond directly to his comments.

I am delighted to know that members of the minority are now engaging in a productive discussion about the need to review—and consider changes to—our current ethics process. As I have said for some time, it is my view—shared by many of our colleagues on both sides of the aisle—that the process is broken and needs comprehensive reform.

Of course the existence and authority of the Ethics Committee is provided for under rule X, which is the unique province of our Rules Committee. I agree that matters relating to this committee and its functions are best addressed without partisanship and with the best interests of this institution in mind. All of my efforts to date in attempting to bring about constructive change in the current process have been made in a spirit of bipartisan cooperation.

The Rules Committee included a commitment to review the ethics process, as prescribed by House rule X, in our oversight plan for the 104th Congress. I refer interested observers to the Government Reform and Oversight Committee's report from March 1995 which incorporated the oversight plans of all committees as required by rule X(2)(d). Specifically, the Subcommittee on Legislative and Budget Process' intentions with respect to the ethics process can be found on page 169 of that report, which states that "the subcommittee intends to review the mandate of the [standards] committee as established in rule X, clause 4 as amended by the Ethics Reform Act of 1989 and the manner in which its members are chosen and required to serve." That particular oversight recommendation was made as part of our committee's overall oversight agenda, and adopted by voice vote of our committee with no complaint by the minority on February 14, 1995.

Since that time I have made several efforts to proceed with what I have always believed would be a bipartisan review of the current process, followed by a bipartisan discussion of options for reform for the next Congress. I had many conversations with our subcommittee's ranking minority member, MARTIN FROST during which he expressed continued reluctance to proceed on this subject. In fact, we conducted a lengthy written correspondence as well, and in deference to him and to the apparent wishes of the Democrat leadership, I postponed our formal review several times. I did, however, proceed in my capacity as a Member of this House in late January of this year and put forward House Resolution 346, embodying my own ideas about ways in which the process should be revised.

At that time, Chairman SOLOMON released a statement that said: "We are honoring the request of the ranking minority member on the Goss subcommittee, Mr. FROST, by not proceeding with hearings at this time. But I think we have an obligation to begin to gather reactions and suggestions from Members and persons outside the Congress on these proposals so that we are prepared to proceed with formal hearings later this year."

It has always been clear to me that ethics process reform should be a bipartisan effort and should be based on input from all points of view. I don't think there is any disagreement on that point. In fact, during our committee's unprecedented hearings to take input from Members and outside witnesses about ideas for building upon the changes that were made to our rules in this Congress as we prepare for the 105th Congress, it became clear that many Members already have developed ideas about improving the ethics process.

The purpose of all of my efforts on this subject is to move the review process forward in a productive manner so that we do not find ourselves in the position where Members want change yet we are locked into the current process for another whole Congress. It is my view that there is advantage to having Members involved in that effort who have had frontline experience with our current process.

I look forward to working with all my colleagues on a bipartisan basis in addressing this issue.

HONORING THE HUNTINGTON BREAST CANCER ACTION COALITION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the extraordinary work of the Huntington Breast Cancer Action Coalition. This coalition has been instrumental in escalating our awareness about the high rate of breast cancer throughout the Huntington community.

The Huntington Breast Cancer Action Coalition conducts town meetings, provides breast exam workshops and distributes educational literature. Moreover, this important organization works with the Suffolk County Department of Health Services to provide yearly mammograms at St. Hughes of Lincoln Church in Huntington Station. The success of this independent, grassroots organization has been studied around the world. In fact, the Huntington organization has inspired the creation of the Tokyo Breast Cancer Action Coalition.

The coalition was created on October 12, 1992, by a group of women led by Karen Miller, who cared deeply about the high rate of breast cancer in their community and had been affected personally by this most serious condition. These women educated their families, friends, and neighbors about various prevention and early detection measures. By 1993, the organization had opened administrative offices. Today, the Huntington Breast Cancer Action Coalition has 1,500 active volunteers, each of whom is committed to putting an end to this serious condition. The organization has sent a woman's breast health survey to 68,000 households throughout Huntington. So far, they have compiled 26,000 responses in their computer data base. The coalition eventually wants to use these findings to help determine the cause of the high rate of breast cancer in Huntington. At a dinner on October 1, the coalition will honor the following members who truly demonstrate the selflessness and compassion of an entire organization.

Michael Miller, who is the husband of the founder of the coalition, has been an outstanding leader in our fight against breast cancer. His wife's struggle with breast cancer has led him to nearly a decade of outspoken advocacy. Mr. Miller has owned and operated the A–OK Appliance Co. for 33 years. He is also an active trustee of his synagogue. Michael Miller has lived happily on Long Island with his wife and three children since the 1960's.

Denise Kleinman, another Coalition activist, has been working toward the creation of a

Breast Cancer Awareness Clinic. Her lifetime of work truly represents how one individual can make such an extraordinary difference. This former New York City teacher has been involved in both her local PTA and in her synagogue. She is also a volunteer for Island Harvest which collects excess food and distributes it to the needy on Long Island. Denise Kleinman currently resides in Dix Hills with her husband and three children.

Carol Caruso has been one of the most active members of the Huntington Breast Cancer Action Coalition. Both she and her husband have donated substantial resources from their family business in order to support this worthwhile cause. Her actions demonstrate how a local business can work alongside a volunteer organization in order to further the common interest of an entire community. Carol Caruso has also been an active volunteer in the Multiple Sclerosis Foundation. She currently lives in Oyster Bay where she enjoys the company of her six grandchildren.

The Huntington Breast Cancer Coalition truly represents the ideas of compassion, community and determination. Their selfless actions will help others overcome their struggles with breast cancer. Mr. Speaker, I ask my colleagues to join me in honoring these extraordinary individuals and the outstanding work they have done for their community. The organization's dynamic leaders and dedicated volunteers should serve as a model for us all.

WE CAN NO LONGER WAIT FOR MENTAL HEALTH PARITY

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. DEFAZIO. Mr. Speaker, Americans are tired of being discriminated against by their insurance company. Mental health parity language included in the VA–HUD appropriation bill was recently endorsed by an overwhelming majority in the House. Nearly five million men, women and children suffer from a severe mental illness. Yet, only 2 percent of the mentally ill receive insurance coverage. Unfortunately, greed seems to be the driving force behind efforts to deprive so many of our friends, relatives and neighbors of this basic care.

We cannot wait any longer to subject mental health benefits to the same annual and lifetime caps as those for physical health. Currently, private insurers place lifetime limits of $1 million for cancer, heart disease, diabetes, and tuberculosis but lifetime limits on mental illness is typically set at $50,000 or less. This disparity is a straightforward solution that will provide financial relief.

A study conducted by Coopers & Lybrand indicates that mental parity legislation would save over $16 million in Medicaid costs annually. People who exhaust their current health care benefits are forced to fall back on the Federal health care system. This is certainly not my idea of responsible fiscal management of our public health care. America's insurance companies can well afford to equalize caps for both mental and medical conditions. We have waited long enough for this comprehensive, financially prudent approach to health care reform. By providing parity for mental health benefits, we are helping millions of Americans move closer toward meaningful recovery. I urge all of my colleagues to listen to the voices of concerned citizens and guarantee mental health parity for all those in need of long-term treatment.

RECOGNIZING OLYMPIC ACHIEVEMENT AND WOMEN'S ATHLETICS

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. BALDACCI. Mr. Speaker, I want to take a moment to recognize the outstanding accomplishment of a gifted athlete and special constituent of mine. Her name is Diane Madl. She is a talented field hockey player and coach. Diane is also an Olympian. At the Atlanta games, she helped the U.S. women's field hockey team to a very respectable fifth place finish. All of Maine is rightfully proud of Diane's selection for the U.S. team and of her performance at the centennial games.

Perhaps more importantly, however, Maine people are grateful for her work at the University of Maine in Orono. As an assistant field hockey coach, Diane serves as a teacher and mentor to many female athletes. Along with head coach Terry Kix, Diane is helping to build a strong athletic program; one that is instilling valuable lessons in each woman associated with it.

Diane's commitment to excellence in the Olympics and at the University of Maine, as well as her dedication to female athletes and belief in all the good that athletes can do is deserving of our recognition, and a heartfelt thank you.

CONGRESS MUST PRIORITIZE STUDENT FINANCIAL AID AND EDUCATION PROGRAMS

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. THOMPSON. Mr. Speaker, I am concerned that as the budget process for fiscal year 1997 comes to a close, whether through an omnibus appropriations bill or by normal appropriations bills, this Congress may not sufficiently prioritize student financial aid and education programs. As we all search to balance the budget, let us not forget the heavy burden that our educational institutions have for preparing today's youth to lead America in the next century.

I understand that cuts will inevitably be made, and many of the President's funding requests will not be met as we wind our way through these budget debates. However, to those Members who feel it is necessary to balance the budget by eliminating Goals 2000, Perkins loans, and Healthy Start while also slashing funding for Pell grants, teacher training programs, and Safe and Drug-Free Schools, I must ask that you reexamine your values.

For example, consider the words that Tomika Harris of Fayette, MI wrote as she applied for a summer scholarship for needy students at the University of Southern Mississippi. In response to the question, "What impact will the loss of financial aid have on your educational goals and what does financial aid mean to you?", Ms. Harris gave us an insight into how important financial aid and a higher education are to today's youth:

> The loss of financial aid will have a dramatic impact on not only me, but also my peers. In my community, there is mostly lower middle class and poverty stricken people. However, most of the kids want to continue their education, but because we have low employment rates, we depend on financial aid terribly to attend a higher education institution. If Congress takes financial aid away, that will be more students on the streets probably selling drugs instead of learning in a classroom. To me, financial aid is not money to go to college, but an opportunity for success.

Perkins loans, Pell grants, Goals 2000, Healthy Start and many of these other programs serve as primary vehicles to lift by State out of the poverty that has consumed generations of bright, young minds. Even now, I can hear the voices of the mothers and fathers I see each weekend in Mississippi telling me that they know their child will have a chance to end the cycle of broken dreams if he or she can only get a Head Start. Now, just as years of hard work by teachers and public officials have helped Mississippi and this Nation to finally begin throwing off the heavy shrouds of poverty, do not send us back into an abyss of shattered lives and undereducated minds.

Each of us has a duty as elected official to heed these voices. Listen to them, they are the children of today hoping for tomorrow.

TRIBUTE TO THE TOWN OF NEW BEDFORD

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. KLINK. Mr. Speaker, it is with great pleasure that I rise today to recognize the town of New Bedford on the occasion of its 200th anniversary celebration.

New Bedford, located in northern Lawrence County, was settled in 1796 by James, Thomas, and Andrew Black. The Black family established a 400-acre tract which today encompasses the entire town of New Bedford. The town itself was named for Dr. Samuel Bedford, whose Bedford claim included portions of land in Mercer and Lawrence Counties.

The original town, designed by Daniel Inbody, was laid out in 1818, and consisted of 89 lots. In 1827, a post office was established and other early enterprises included a grist mill, pottery, tavern, tannery, creamery, and distillery. The first school in the area was situated at Hopewell in the old building erected by the Presbyterian congregation. The town of

New Bedford was a well-known stopping place for stage and mail coaches traveling between Mercer and Youngstown, OH.

A beautiful, rural area, New Bedford lies hundreds of feet above the water level of the Shenango River. This close-knit community is home to some 300 residents, many of whom can trace their roots of the founding families of the town. Such early entrepreneurial spirit is today reflected in the pride, patriotism, and virtues of the citizens of this outstanding town. It is a pleasure and an honor to congratulate them on the occasion of this historic celebration.

PRESIDENTIAL MEDAL OF FREEDOM TO MORRIS UDALL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. MILLER of California. Mr. Speaker, two weeks ago, President Bill Clinton awarded the Presidential Medal of Freedom to our former colleague, and my good friend, Morris Udall. I can not think of a more deserving recipient of our nation's highest civilian award.

Mo represented the 2nd District of Arizona in Congress for 30 years, coming in as a young upstart bent on dismantling the old seniority system and leaving as one of our most revered senior Members.

Mo served as Chairman of the House Interior and Insular Affairs Committee for fourteen years. He was instrumental in leading the way for the enactment of landmark legislation protecting the environment as well as the rights of American Indians and those living in the U.S. Territories.

Some of the laws which now stand as a testament to Chairman Udall are: the Alaska Lands Act, the 1984 Wilderness Act, the 1982 Nuclear Waste Management Act, the American Indian Religious Freedom Act, the Indian Child Welfare Act, the Alcohol and Substance Abuse Prevention and Treatment Act, the Native American Graves Protection and Repatriation Act of 1989, the National Trails System Improvements Act of 1988, the Wild and Scenic Rivers Act of 1968, the Federal Land Policy and Management Act of 1976, the Archaeological Resources Protection Act of 1979, the Surface Mining Control and Reclamation Act, and the Compact of Free Association with the Trust Territories of the Pacific.

Mr. Speaker, Mo Udall was so successful in getting legislation passed because he was a master at building coalitions out of diverse interests. I am inspired each time I sit in the Morris K. Udall hearing room of the Longworth House Office Building where Mo served and presided for three decades. Mo's portrait looking down at us from its perch over the fireplace reminds me of the fairness, humor, and dignity with which he ran the committee. The issues before the Interior (now Resources) Committee have always been contentious. But Mo Udall was able to bring us all together to make the important decisions on how best to protect our precious natural resources for future generations.

In 1976 Mo ran for President of the United States. Many say his incredible wit and unabashed kindness got in his way. He simply would not attack his opponents. After coming in a close second in numerous primary battles, Mo stepped back and refocused on the environment. He also put his carefully collected notes together and authored Too Funny to Be President, a compilation of some of his favorite campaign stories and political humor. I think he wrote this book so he could just hand it out each time one of us came up to him and ask him to tell a story just one more time so we could get it straight and then use it ourselves.

Mo is a World War II veteran and played professional basketball for the Denver Nuggets; he is also an attorney and private pilot. Mo lost one of his eyes in a childhood accident. His basketball prowess was so unaffected by this disability that one sport reporter claimed the false eye to be a myth.

Mo's stories are legendary. He made us laugh, he made us think, and he made this Nation a better place for our children and our children's children. As we get caught up in this contentiousness and tumult of this Congress, we should ponder one of Mo Udall's most oft repeated lines: "Oh Lord, may you help me today to utter words which are soft and tender—for tomorrow I may have to eat them."

Mr. Speaker, today our friend Mo Udall remains in a nursing home not far from here. Parkinson's Disease has rendered this excellent communicator unable to regale us with his wisdom and his wit. Yet his good deeds here will be long remembered, just as they so appropriately earned him the Medal of Freedom.

Congratulations, Mo, on receiving the Presidential Medal of Freedom.

DEFENSE BREAKS COMMITMENTS TO GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. UNDERWOOD. Mr. Speaker, in the past four weeks, Guam has shown once again its immense value to the projection of our national interests in the western Pacific. Guam is the base that launched the B–52s against Iraq. Guam is now the temporary home for over 2100 Kurdish refugees who were evacuated from Iraq. And Guam may be called on again in the coming days to do even more to help with the Kurdish refugees.

Guam is the reliable partner for United States interests in Asia, indeed the world. But recent actions of the Department of Defense threaten to undermine this partnership, and to determine the good will between the people of Guam and the military.

Today DoD sent a letter to the Chairman of the House Committee on Resources objecting to certain provisions of my bill to return excess federal land to the people of Guam. The basis of the DoD objections cause us to wonder if any progress has been made in Guam's efforts to return excess lands over the past twenty five years.

In 1993 and again in 1994, I hosted two Guam Land Conferences that DoD participated in. The first land conference, held on Guam, allowed our people to make a direct plea for land no longer needed by DoD. The second conference built on the initial good will as we discussed actions to be taken to return land.

It used to be our common ground to agree that DoD should in fact give up land it no longer needs. In preparing for the Guam Land Conferences, DoD prepared a comprehensive study detailing its needs for the future—a study drafted by operational commanders in the Pacific and on Guam. Now we learn today that past assurances by a whole array of military officials over the past twenty five years are no longer valid. Now we learn that DoD does not know what its land needs are, and in fact, would rater not return land to the people of Guam, preferring instead to give its excess holdings to the Fish and Wildlife Service.

It is impossible for Guam to make a case for excess lands if we do not know what DoD's needs are. It is troubling if DoD does not know itself what it needs are. But it is even more ridiculous, if just for the sake of the Fish and Wildlife's interests, DoD would now repudiate its own report issued just seventeen months ago by the operational commands where releasable lands were listed in great detail acre by acre.

We are told today that DoD prefers to give land to the Fish and Wildlife Service just so that it may take these lands back at some indeterminate point in the future for some unknown contingency.

Yet, I would point out that all the operational commanders who gave their input to the 1994 Guam Land Use Plan did in fact consider all their needs for any credible contingency. It is now amazing to me that the Department of Defense has surrendered its military planning functions to the U.S. Fish and Wildlife Service.

I want to enter into the record the three taskings that the Guam Land Use Plan addressed:

(1) Review the requirements for military land holdings based on foreseeable mission taskings and force levels;

(2) Develop a comprehensive plan for all DoD land requirements on Guam which considers combined service use of property where feasible; and

(3) Identify opportunities for functional consolidations and joint use arrangements, and address environmental considerations that affect land use.

Nowhere in the Guam Land Use Plan is there any mention of giving excess lands to the Fish and Wildlife Service for some unknown contingency. But now that Congress is considering legislation to give the people of Guam the first right of refusal for any excess Federal land, DoD suddenly remembers that this is what they want to do with excess lands.

This is wrong. This is unfair to the people of Guam who have been the most accommodating community for the needs of our national security.

We cannot make progress on land issues on Guam unless we deal with the issues in a forthright and open manner. We cannot accept double dealing and broken promises. We cannot let a special interest, the environmentalists, and their narrow agenda define and not influence the entire relationship between the people of Guam and the military bases.

That is what happened today in the DoD letter to Congress. I hope that those who are serious about solving land issues to ensure the future good will of the people of Guam to the military presence on our island will work with us to undo the damage done by this DoD action. After this latest crisis with Iraq passes, Guam will be called upon again to serve the national security interest. If we want to have a reliable partner in Guam, we have to work to return unneeded land to the people of Guam.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, September 24, 1996.

Hon. DON YOUNG,
Chairman, Committee on Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, the Department of Defense provides the following views on H.R. 3501, the "Guam Land Return Act."

The Department of Defense opposes enactment of Section 2 of H.R. 3501. Section 2 would give the Government of Guam a priority over Federal agencies with respect to the acquisition of Federal real property declared by one agency to be excess to that agency's needs. Specifically, Section 2 would amend the Organic Act of Guam to require the Administrator of GSA to transfer to the Government of Guam, at no cost, all Federal real property on Guam declared excess by any Federal agency, notwithstanding the possibility that another Federal agency may have a demonstrable need for that property. In this way, the proposed bill would, in effect, trump the existing GSA property disposal process.

Our principal objection to Section 2 is that it represents a piecemeal approach to the resolution of issues currently being discussed with the Guamanians in the context of a draft Guam Commonwealth Act. The Guamanians, through Mr. John Garamendi, Deputy Secretary of the Interior and the Administration's Special Representative for the Guam Commonwealth negotiations, have proposed a draft Guam Commonwealth Act for consideration by interested Federal agencies. (An earlier version of this draft was introduced in the 104th Congress as H.R. 1056, the "Guam Commonwealth Act"; the draft under consideration in these negotiations has evolved significantly from that which remains before Congress.) The Department of Defense has been actively engaged in discussions and is working with all concerned parties to develop a mutually satisfactory position on all issues presented in the draft Guam Commonwealth Act, including those concurrently presented by Section 2 of this bill. Because the disposition of excess Federal lands on Guam is being addressed in the context of negotiations on the draft Guam Commonwealth Act, and because resolution of this issue is closely linked to other land issues presented by the Guam Commonwealth Act, the Department of Defense believes Congressional action on Section 2 of H.R. 3501 is not appropriate at this time. We recommend instead that this issue be considered only in the context of the more comprehensive Guam Commonwealth discussions. The Department of Defense is committed to making every reasonable effort to reach a mutually satisfactory resolution of all the issues presented by the draft Guam Commonwealth Act, and to that end will continue to participate cooperatively in interagency discussions of that draft Act.

In the event Congress elects to consider H.R. 3501 outside of the Guam Commonwealth discussions, the Department of Defense has several more specific concerns with enactment of Section 2 as currently drafted.

The Department of Defense currently relies on the flexibility inherent in the GSA land disposal process to ensure the viability of current and future missions. The existing process allows the Department of Defense to transfer lands not presently being actively managed for core needs (e.g., certain safety and buffer zones) to another Federal agency to further that agency's mission, yet retain the ability both to protect continuing operations on retained lands and, under certain limited circumstances, obtain access to the transferred lands to meet national defense contingencies. This flexibility is critically important to the Department of Defense and the nation. While the Department is quite willing to discuss with Guam alternative ways of providing this needed flexibility, the Department believes these discussions would more profitably take place in the context of the overall Guam Commonwealth proposal.

In addition, Section 2 is unclear with respect to its effect on existing Federal environmental laws. As currently drafted, it is difficult to reconcile the requirement of Section 2 for the immediate transfer to Guam of all excess federal lands with the requirement of Section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) that all necessary environmental cleanup actions be in place and operating successfully before property may be transferred from Federal ownership. In order to meet the requirements of Section 120(h)(3) of CERCLA, the Government of Guam must be prepared to wait until all necessary cleanup actions have been taken (which may—depending on the complexity of the situation, the risk presented, and the availability of resources—take several years).

In summary, the Department of Defense opposes enactment of Section 2 of H.R. 3501 as currently drafted. While we prefer resolving this issue in the context of the Guam commonwealth discussions, if Congress elects to consider H.R. 3501 at this time, we request that it consider the attached redrafting of that bill. I am forwarding a letter expressing similar views on S. 1804 (which contains language identical to Section 2 of H.R. 3501) to Senator Murkowski, Chairman of the Senate Energy and National Resources Committee and Senator McCain, Chairman of the Senate Armed Services Committee, Readiness Subcommittee.

The Office of Management and Budget advises that there is no objection, from the standpoint of the Administration's program, to the presentation of these views for the consideration of the Committee.

Sincerely,

JUDITH A. MILLER.

Enclosure.

GUAM LAND USE PLAN UPDATE

The island of Guam is strategically located at the boundary between the Pacific Ocean and Philippine Sea, and has been an integral part of the U.S. military's base support complex since World War II. Guam is a major logistic, communication, surveillance, and weather center in the Western Pacific, and is becoming more important as a training area for units assigned to the island, as well as transient units.

The intent of the Guam Land Use Plan Update (GLUP 94) is to:

Review the requirements for military land holdings based on foreseeable mission taskings and force levels.

Develop a comprehensive plan for all DOD land requirements on Guam which considers combined service use of property where feasible.

Identify opportunities for functional consolidations and joint use arrangements, and address environmental considerations that affect land use.

The study area for GLUP 94 includes all land currently owned by the Department of Defense (DOD) on Guam. This amounts to a total of approximately 44,800 acres of land. Of this, about 24,500 acres are owned by the Navy and 20,300 acres are owned by the Air Force. The total DOD land holdings constitute approximately 33 percent of the total land area of Guam.

Projected base loading requirements provided the major focus for GLUP 94. The Air Force's current personnel loading is 2,500 persons (PN). No personnel loading changes are anticipated in the near- or long-term, although there is a need to maintain an adequate footprint on Guam to accommodate the Air Force's contingency plan for the Pacific Region. The Navy's current authorized personnel loading is 7,700 PN. Reductions in the near-term are expected to occur due to the closure of Naval Air Station (NAS) Agana and the transfer of supply ship operations from military control to the Military Sealift Command (MSC). These actions would result in an estimated loading of 5,600 PN. Based on the recent decision to temporarily relocate the VQ-1 and VQ-5 squadrons to CONUS, this figure will decrease to approximately 4,600 PN. Neither the Air Force nor the Navy have long-term land requirements to accommodate a potential rollback scenario.

[Note: During the final stages of the preparation of this report, potential changes to baseloading on Guam were announced as part of the Base Realignment and Closure (BRAC) process for 1995. These proposed changes were not incorporated in this report since the final decisions for BRAC 95 will not be final until Fall of this year.]

DOD land requirements were addressed through analyses of various functional areas. This effort was guided by an overall land use concept which recommended the consolidation of military activities in the northern and southern sectors of the island. Such a concept would create more efficient operations and lower operational costs. The result of the functional analyses was the identification of lands which are currently developed and required for military use, in addition to undeveloped areas that are impacted by DOD missions (i.e., training areas, explosive safety zones, electromagnetic interference/hazard zones, and aircraft safety zones). The process also identified areas not required for DOD mission requirements.

An overview of land release recommendations is presented in Figure ES-1. Recommendations of this study propose the release or potential release of an estimated 8,207 acres. This includes 3,670 acres of land owned by the Air Force, and 4,537 acres owned by the Navy. When combined with 3,200 acres previously identified as excess, the DOD footprint on Guam is projected to decrease by about one fourth.

Several major steps must be completed prior to final disposal of the property. First, plant account holding activities need to submit reports of excess, environmental certification forms and McKinney Act checklists to the Pacific Division, Naval Facilities Engineering Command (PACNAVFACENGCOM) via their chain of command to the major claimant level. Environmental baseline surveys may be prepared to complete the environmental certification forms. The next step

is to request Washington, D.C. approvals for disposal actions. Then, legal property descriptions and easement boundaries must be established. The above tasks may require one and two years to complete, respectively. The initial environmental baseline surveys will cost approximately $520,000, and could be higher if follow-up studies are required. The cost of preparing property descriptions will be approximately $300,000.

Following the environmental baseline surveys, environmental mitigation studies (including clean-up analyses, cultural resource surveys, etc.) would be conducted in order to determine necessary environmental mitigation actions and timeframe for completion. It should be noted that property disposal actions for contaminated areas must be deferred until environmental mitigation studies and clean up actions are completed. For example, any military land listed on the National Priority List (NPL), which includes all land owned by the Air Force on Guam, must be first certified clean by the Administrator of the U.S. Environmental Protection Agency (EPA).

TRIBUTE TO JOHN LOCKHART, LEGISLATIVE ADVOCATE FOR THE SAN DIEGO COUNTY OFFICE OF EDUCATION

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. FILNER. Mr. Speaker, I rise today to commemorate the retirement of John Lockhart, who later this month will complete a distinguished career in education spanning nearly 30 years, including the last 20 as the legislative advocate for the San Diego County Office of Education.

As legislative advocate, John Lockhart has been charged with a multitude of difficult tasks: following education legislation both in the California Legislature and in Congress; working closely with local, State, and Federal officials in San Diego County; coordinating with superintendents, trustees, and staff of the San Diego County School District; and organizing an endless number of programs, briefings, and workshops.

For all of these responsibilities, John Lockhart has had one goal: to improve the education of elementary school students in San Diego with leadership and service. As a former member of the San Diego School Board, I can attest to the fact that John Lockhart has achieved this goal year after year. The entire San Diego County educational community will remember John for his efforts to improve the educational quality of our schools.

John began his career in 1957 as a science education researcher for the National Science Foundation. He next served as executive assistant to the chief lobbyist at the National Education Association.

Beginning in 1966 he was an educational systems specialist at Litton Educational Publishing in Washington, DC. He later served as vice president of the Taber Management Co. in Washington, DC, where he helped education clients with membership, funding, and program promotion, and was involved in the marketing of multimedia materials in applied behavioral sciences.

John has also worked for the Washington State Department of Public Instruction and the Colorado Education Association.

Since his arrival to San Diego in 1977, John has become a highly respected member of the Association of California School Administrators. His contributions as legislative advocate for education in San Diego County will forever be remembered and appreciated. I ask all residents of San Diego County to join me in saying "well done" to a true leader and advocate for education.

40TH ORDINATION ANNIVERSARY OF FATHER STANLEY CZARNOTA

HON. DICK CHRYSLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. CHRYSLER. Mr. Speaker, I rise today to commend Father Stanley Czarnota.

Father Stanley Czarnota was born in Wolka, Poland, in January of 1933 in a small village located along the largest river in Poland. He is the youngest child of Frank and Helen, and he has two sisters, Mary and Jessica.

Father Czarnota graduated from high school in 1951 and then attended Catholic Lubin University. In 1956, he received his degree in theology and was ordained a priest on December 22, 1956. He worked in Poland as an assistant pastor and then pastor at Borowicz, located near the Russian border.

Relatives from both Fr. Czarnota's mother's and father's family reside in the United States. His father spent 10 years in Michigan before returning to Poland. In 1976, Father Czarnota's family came to America and fell in love with this country. After receiving permission from his bishop in Poland, Father Czarnota applied for permanent residence in the United States. He was accepted in the Lansing dioceses and began working in this area. On August 6, 1981, he became a citizen of the United States of America. He described the event as "an unforgettable day, a very special day in my life, a day I will never forget and will always treasure."

Father Czarnota has always stated that he had the marvelous opportunity to repay this country for adopting him by accepting a commission in the U.S. Navy on May 15, 1988. On September 29, 1996, Father Czarnota will celebrate his 40th ordination anniversary as a priest.

A former commanding officer in the Navy stated, "Father Stanley no matter where he works has left a very important message with many people. No matter what task, and there are many in various areas, his work with the youth or older community have left a healthy and lasting impression of encouragement and always going out of his way to improve or be helpful with the individuals when needed."

Father Stanley Czarnota is well known in Flint, Ann Arbor, Detroit and Lansing for his work with the refugees from Poland. His work has been fulfilled when he saw newcomers pursue their dreams in America and succeed in many fields of work, not only for themselves, but also for their families.

His motto is quite simple: "Don't worry, be happy."

THE MANAGED CARE ORIENTATION AND MEDICAL PROFILE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 24, 1996

Mr. STARK. Mr. Speaker, I am pleased to introduce "The Managed Care Orientation and Medical Profile Act."

For the past decade, the Medicare and Medicaid programs have been joining the national movement to managed care. Medicare enrollment in capitated Health Maintenance Organizations (HMOs) jumped from 441,000 members in 1985 to almost 3.5 million beneficiaries as of March 1996. Medicaid enrollment in managed care has been more dramatic as States have received Federal waivers to enroll almost all of their Medicaid recipients in HMOs.

The growth in managed care is largely due to the aggressive marketing practices of managed care plans. HMOs place financial incentives on door-to-door agents to enroll as many new members as the plans can handle. Medicaid HMOs even stake out food stamp offices targeting would-be enrollees with free gifts and high pressure tactics.

Unfortunately, these practices put some of our most vulnerable populations at severe risk. Consumer advocates have reported that Medicare and Medicaid beneficiaries are often enrolled without understanding what they are signing. Some unscrupulous health plans even prey on non-English speakers or the mentally handicapped. As a result, many new enrollees are left clueless as to how their health plan works or how to access care while the HMOs begin receiving payments from the government for care they are not providing.

Once an individual is enrolled, Medicare sends the HMO somewhere between $300 and $700 per month (depending on the region of the nation) to maintain the health of that person and to treat them when they are sick. In many cases—perhaps most cases—Medicare can spend thousands and thousands of dollars on behalf of an enrollee before that person ever visits the HMO. In the meantime, the health of the enrollee can actually be deteriorating and more serious problems can be developing.

The legislation I propose today address this problem by making HMOs more accountable for the lives they enroll. In order to enroll new patients, HMOs would have to fulfill the following requirements before payment begins:

First, conduct an orientation meeting with the new enrollees introducing them to managed care and clarifying where to access care, which benefits are covered, and all payment structures including deductibles and copayments.

Second, conduct a preventive screening as defined by the Secretary and an immunization assessment for children.

Managed care claims to be effective because it works with the patient to "manage"

health and prevent illness. When the government is paying the bill, we ought to demand that plans live up to this promise by mandating the orientation and medical profile before their payment begins. In the medical profiling encounter, the HMO can begin to work with the enrollee on issues such as diabetes, lack of immunization, obesity, smoking, alcoholism, pre-cancerous skin conditions, high blood pressure—the whole range of potential health problems that a good HMO should know about their enrollees and be working to improve.

The August 1996 issue of New York's United Hospital Fund newsletter "PolicyLine" shows why the idea of requiring a meeting and work-up before we start paying HMOs makes a great deal of sense:

Even if specifically required to assume certain public health responsibilities, however, managed care plans may not yet have the experience or systems to fulfill their responsibilities, as experienced in Wisconsin demonstrates. Five years into its managed care initiative, Milwaukee experienced a measles epidemic. According to Paul Nannis, Milwaukee Commissioner of Health, the city had 1,100 cases of measles in 1990, mostly among disadvantaged preschool-aged children. Eighty-three percent of these children were in HMOs; three of them died. Subsequent analysis revealed that of all the preschoolers enrolled in the HMOs, two-thirds were not appropriately immunized. In the wake of this crisis, the department of health provided 20,000 shots in a ten-week period, 55 percent of them to children enrolled in HMOs.

In analyzing the events that led to the crisis, Mr. Nannis said that the independent practice associations that were operating as managed care organizations had not fundamentally altered the way they delivered primary care services. Simply renaming the existing system managed care and changing the reimbursement process for physicians who continue to practice medicine the same way they always have done does not magically manage anybody's care, said Mr. Nannis.

While the Milwaukee example refers to a Medicaid managed care type program, I believe its lessons apply more broadly. As the article continues, Mr. Nannis is quoted as saying

* * * public health agencies [read: HCFA] and HMOs need to be at the same table before initiatives start. Managed care plans should be expected to provide uniform data on enrollees including prevalence and cause of mortality, morbidity, and disability; timing and frequency of immunizations; and effectiveness of interventions.

HMOs and managed care can be a wonderful thing for the health of the American people—but only if people know how to use their HMO and only if their HMO works with them to prevent the minor problems of today from becoming the medical catastrophes of tomorrow.